

IDEOLOGY AND CONSTITUTION OF PAKISTAN

(BS PROGRAMME)

Course Code: 9378/9804 **Units: 1–9**

Department of Pakistan Studies
Faculty of Social Sciences and Humanities
ALLAMA IQBAL OPEN UNIVERSITY

IDEOLOGY AND CONSTITUTION OF PAKISTAN

(Compulsory)

For BS

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Department of Pakistan Studies
Faculty of Social Sciences and Humanities
ALLAMA IQBAL OPEN UNIVERSITY, ISLAMABAD

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COURSE TEAM

Dean: **Prof. Dr. Abdul Aziz Sahir**
Chairperson: **Dr Samina Yasmeen**

Course Coordinator: Dr. Khalid Mahmood

Writers:

1. Dr. Khalid Mahmood
2. Samira Naqi
3. Arif Hussain
4. Muhammad Zaman Khan
5. Seema Haris
6. Noor Azmat
7. Sajida Parveen
8. Azhar Liaqat

Reviewers:

1. Prof. Dr. Anwar Shaheen
2. Prof. Dr. Abdul Rauf
3. Prof. Ijaz Hussain Minhas

Editor: **Fazal Karim**

Layout & Design:

FOREWORD

Allama Iqbal Open University is the leading university in Pakistan providing education in open distance learning mode to all citizens of the country. The university has been providing educational opportunities to all segments of society without any discrimination. It is the honour of AIOU to launch BS Programs in various disciplines for those who are unable to join regular education due to their personal and professional commitments. AIOU is obviously your own institution that provides education facilities at your doorstep.

In compliance with the Undergraduate Education Policy 2023 of the Higher Education Commission of Pakistan, the Department of Pakistan Studies, AIOU introduces a new course titled "Ideology and Constitution of Pakistan" at the BS level. The objectives of this course are to develop learners' understanding of the ideological foundations of Pakistan and the role of different reformers and political leaders in the development of the ideology of Muslim nationhood and their struggle for the creation of a separate state.

The Constitution of Pakistan went through various amendments over a period of time. The first constitution of Pakistan was enforced in 1956 but it was abrogated in 1958. The second constitution of Pakistan was promulgated by Ayub Khan in 1962 but it was also abrogated in 1969. The 3rd constitution of Pakistan came into effect in 1973. This Constitution was also suspended in 1979 during the martial law period.

It is essential for students to study various aspects of the ideology of Pakistan. We are also required to critically understand the structure of government and the constitution of Pakistan. Therefore, the development of politics and constitutions have also been discussed in this course. As a newly developed course, it would fulfill the requirement of students at the BS level.

I am pleased that the new course book "Ideology and Constitution of Pakistan" is now available for the students enrolled in BS Programmes of various faculties of Allama Iqbal Open University, Islamabad. The book provides authentic information and facts about the history, ideology, and political and constitutional development of Pakistan.

Prof. Dr. Nasir Mahmood
(Vice Chancellor)

INTRODUCTION TO COURSE

Allama Iqbal Open University Islamabad has started the BS Programme in its various faculties. The Department of Pakistan Studies has the honour of developing many courses for the university students from matric to M Phil. This course is developed according to the requirements of Higher Education Commission of Pakistan. The course fulfills the needs of the students regarding their queries about the Ideology of Pakistan.

This course comprises nine units consisting of three credit hours. The chapters of the course have been written and reviewed by the subject experts. Unit one describes the introduction to the ideology of Pakistan and its definition. The ideology of Pakistan has its specific features. The evolution and development of the Muslim Community in India have been discussed in this unit. The second unit of this course is related to the political and constitutional development in British India and Muslim's response. The Indian Muslims were under suppression and pressure during the period from the Battle of Plassey (1757) to the War of Independence (1857). After the war of independence, the Muslim leaders responded well in the fields of education and politics.

The next unit deals with the two nations theory: Muslims struggle from a separate electorate (1909) to a separate state (1947). The period from 1867-1905 is considered as the rise of Muslim separatism in India while the period from 1906-1915 was the period of Muslim political activism during this period the formation of the All India Muslim League was a great achievement of the Indian Muslims. From 1916-1929, the Muslims of South Asia came to the politics of cooperation and accommodation. During the decade of 30, the Indian Muslims separated their ways from the Hindus and at last, the All-India Muslim League passed the Lahore Resolution in 1940. Mr. Jinnah demanded a separate homeland during 1940-1947 on behalf of Indian Muslims.

Unit 4 comprised of Roles of Leaders of the Pakistan Movement including Pan Islamist, Nationalist, and provincial Muslim leaders. The role of women and students in the Pakistan movement has also been discussed. The next unit of this course dealt with the Introduction to the Constitution of Pakistan. Definition, Importance and types of Constitutions have been discussed in this unit. Moreover, the procedure and structure of the adoption of the Constitution as well as the procedure of constitutional amendments have been described by the author.

The history of Constitutional Development in Pakistan has been discussed in unit six. Ideological factors and constitutional development, the Constitution of Pakistan 1956, the Constitution of Pakistan 1962, and the Legal Framework Order (1970) and dismemberment of Pakistan have been elaborated by the author. In the next unit of this course, the salient features of the Constitution of Pakistan 1973, the Structure of the state and provinces, the structure and functions of the parliament

and the distribution of the power between the center and provinces are the important discussions.

In eighth unit of this course informs the students about the fundamental rights of the citizens of Pakistan, the responsibilities of the Pakistani citizens and the violation of human rights in Pakistan. The ninth and last unit is regarding the constitutional amendments in Pakistan. The unit covers the state of democracy and the constitutional amendments till 2023.

Dear students, I am hopeful that the course will be highly fruitful for those who wish to gain more information about the ideology of Pakistan and constitutional development in the country. Being a course coordinator, I have tried my best to provide you with authentic knowledge and vast information as you have to learn as non-formal students of Allama Iqbal Open University Islamabad.

Course Development Coordinator
Department of Pakistan Studies
Allama Iqbal Open University, Islamabad
Khalid.mahmood@aiou.edu.pk
Khalidmahmoodpsc@gmail.com
051- 9576771

OBJECTIVES OF THE COURSE

This course is developed for the BS Programme in different subjects/faculties offered by Allama Iqbal Open University Islamabad. The course comprises 9 units of 3 credit hours as per H.E.C approved criteria. The course aims to develop insights into the ideological foundations of Pakistan, the role of different reformers and political leaders in the development of the ideology of Muslim nationalism and their struggle for the creation of a separate Muslim state. The course will also explore the political and constitutional structure of British India and totry to highlight the Muslim's struggle for the protection of their rights, initially through concessions and safeguards and finally towards the creation of Pakistan.

The second section of the course deals with constitutional and political developments and challenges to democratization of Pakistan. Through the historical appraisal of constitutional challenges to the state of Pakistan, the course aims to enlighten the students regarding the role of different institutions. It also elaborates on the concept of trichotomy of power (Legislative, Executive and Judiciary) and constitutional design of separation of powers between the state and her institutions. It also highlights the fundamental rights and responsibilities of the citizens of Pakistan. The course will help to promote patriotism and civic sense among the students.

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INTRODUCTION TO THE IDEOLOGY OF PAKISTAN

Written By:
Dr. Khalid Mahmood

Reviewed By:
Prof. Dr. Anwar Shaheen

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INTRODUCTION

The creation of Pakistan was based on the Two Nation Theory. The Muslims of South Asia had their own ideology. They had been living with the Hindus in the sub-continent for many hundreds of years but the India Muslims neither lost their identity nor merged with the Hindus. They maintained their own identity in this area.

First of all, the Muslims came to India from Arabs through the sea routes. Their arrival in coastal areas and connectivity with the Indians was as the traders. They did not make only trade but also spread Islam through their communication in decent ways as well as their honesty in trading and good character in their deeds. A larger number of Hindu traders were inspired by the Arab traders and developed good relations with the Muslims.

In 712 AD, Muhammad bin Qasim arrived in India through the Arabian Sea and defeated Raja Dahir near Deeble in Sindh. Muhammad bin Qasim established the first Muslim government in Sindh and promoted Islam in South Asia. With the passage of time, the Muslims preached Islam and the local population accepted it. In this way, they ruled over the sub-continent till 1857.

After the War of Independence in 1857, the Muslims were exploited and demoralized not only by the British but also by Hindus. Sir Syed Ahmed Khan and some other Muslim leaders came to the front; they guided the Muslims and asked them to struggle for independence from colonial rule. In this way, the Muslims of the India tried to get rid of the British as well as the Hindus, who were in the majority hence possibly the future rulers of India after the departure of the British. They decided to struggle for the sake of their freedom and demanded a separate state.

Due to various reasons and the changing circumstances, the ideology of Pakistan also developed among the Muslims of South Asia in the post-1857 period.

OBJECTIVES

After reading this chapter, you will be able:

1. to develop an understanding of the concept of ideology;
2. to learn about the evolution and development of the Muslim community in India;
3. to know about the historical perspective of Muslim identity in India; and
4. to learn about the salient features of the Ideology of Pakistan.

1.1 DEFINITION AND SIGNIFICANCE OF IDEOLOGY:

Ideology is a word commonly used in our daily routine. According to its composition, the word “ideology” is made up of two words in the Greek language. One of these is “ideo” and the other is “logos”, which put together, means “the study or science of ideas”. The word ideology is a composite discourse in the sphere of social sciences due to various approaches among scholars and social scientists on its definition and meaning. Traditionally, the word “ ideology" the first time was used during the French Revolution in 1789 by a French intellectual ‘Antoine Destutt’ de Tracy. According to him, this word was used as the “Science of the Ideas” regarding political and social life. Karl Marx, the most famous thinker of Germany, held the opinion that ideology is about the ideas of any ruling class, who desire to uphold their honored position and order through capitalism.

However, the word Ideology can be defined as “a set of socially shared beliefs, norms, values, ideals, convictions, institutions, goals and a body of knowledge which people believe significant and practicable. All these features bind the nation together and depict a true reflection and product of ideology”. These positive and common traits can be found almost in every ideology all over the world. It also proposes a step forward, for example, a manifesto or a line of action to be followed in order to attain the preferred target in the future. These socially shared ideas, speculations and beliefs are associated with the ideologies to validate the accessible or desired public or political order. In simple words, “A political ideology is a set of shared beliefs, values, norms and principles that explains and justifies a preferred political order or proposes a new order and program to nation or civilization”. As mentioned above, the concept of ideology was initiated during the French Revolution (1789), which stands for the science of ideas. However, the concept of political ideology appeared in the early years of the 19th century.

Importance of Ideology:

Ideology is a a motivational and extremely important force behind the advancement of any nation. Ideology provides an accurate direction and a sense of purpose to a nation. It is the ideology that supplies a platform to sprinkle social groups in a society and bring them together. Ideology also plays a vital role in building a nation. Moreover, ideology provides the right direction to its followers towards evolution as well as revolution. New norms, values and cultures of society are shaped by the ideologies and these qualities work like a binding force in any society. The function of an ideology is similar to a backbone in the structure of a nation, and without the ideology, there is no impression of a nation. Ideology neither can be prepared in laboratories nor in talks but is an essence of the practical experience of the people of a nation. The ideology of Pakistan was very important

for the Muslims of India, whereas the base of the Ideology of Pakistan was the Two Nation Theory. Both are discussed in the following sections.

The Ideology of Pakistan:

Our beloved country Pakistan came into existence on 14 August 1947 as a result of the partition of British India. The formation of Pakistan is unique in the sense that it was based on the Ideology of Islam instead of on the western perception of the state. The idea of nation states appeared in Europe at the beginning of the 19th century A.D. According to this concept, secularism was the innermost belief of the nation state, in which the sovereignty belonged to the people. In contrast, the foundation of Pakistan was based upon the principles of Deen-e-Islam, where all the sovereignty of the state and people belongs to Almighty Allah. The ideology of Pakistan has passed through various phases and the process of evolution. During the Pakistan Movement, "Pakistan Ka Matlab Kia, La Illaha illa Allah" was the popular slogan adopted and it was the central argument of the freedom movement which provided the basis for Pakistan. Historical experiences grew the realization among the Muslims of South Asia that they were totally dissimilar from the Hindus in every aspect of life. With the passage of time when the 19th century approached, it was a period of great trials and disasters for the Muslims in United India. It was the time when some Muslim leaders felt the pain of the Muslim Ummah. They realized the real issues of Indian Muslims. Sir Syed Ahmed Khan, Dr. Allama Muhammad Iqbal and Mr. Muhammad Ali Jinnah then emerged as the real heroes of the Indian Muslims. Sir Syed Ahmed Khan clearly spoke out that Muslims and Hindus were two separate communities. Dr. Allama Muhammad Iqbal gave philosophical clarification by presentation of his idea regarding the demand for a separate homeland for the Muslims of South Asia. Consequently, Mr. Jinnah converted the abstract ideas of Allama Iqbal into a reality in the form of an independent Islamic state.

Two Nation Theory:

Pakistan came into being on the basis of Two Nation Theory. The communal perception of the 'Two Nation Theory' was the origin cause for the establishment of Pakistan as a free and sovereign state. The variations and differentiations between Hindus and Muslims (the two major communities) of the United India in the form of culture, politics, linguistics, philosophy, religion, and economy served as the roots of Two Nation Theory. The Two Nation Theory is simply defined as: Islam and Hinduism are not only two separate religions but they are, indeed, two different social systems and thus have completely dissimilar ways of life from each other. The Muslims and the Hindus are two dissimilar nations on the basis of the Two Nation theory. The Muslims had been living together with Hindus in the subcontinent for more than ten centuries; the Muslims of India have their own

values, norms, culture, music, eating habits, ways of worship, architecture, and literature. Therefore, the Muslims could not merge into any other nation as they had their different worldview, because their ideology is based on the principles of Islamic thoughts. Therefore, these differences pushed the Muslims the demand a separate homeland wherein they would be able to practice their own religion freely.

1.2 EVOLUTION AND DEVELOPMENT OF THE MUSLIM COMMUNITY IN INDIA:

Islam came to South Asia with the arrival of the Arab traders. The idea of Muslim nationhood among the Muslims of the Indo-Pakistan subcontinent was developed before the creation of Pakistan. Pakistan was a result of this idea of nationhood. An in-depth and thorough study of the history demonstrates that the Muslim community in India emerged with the arrival of Islam. When the Arab traders came to coastal areas of India, they introduced Islam to the subcontinent. Islam introduced new principles and values significant to every sphere of life. Truly, the Muslim community started in the South Asia when the very first Indian embraced Islam. It was the opening step towards the Two Nation Theory. The Arab traders used to visit the south Indian coastal areas for trading activities, even in the pre-Islamic era. They had already developed close contacts with the local population. With the arrival of Islam, the Muslim Arab traders acquired an opportunity to preach Islam. During their trading activities, the Arab merchants impressed the local Hindus with their honesty, truthfulness, simplicity, and fair dealings in their business. They brought here the revolutionary message of Islam about the equality of humans.

In 712 AD, Muhammad Bin Qasim, the Muslim commander of the Umayyad kingdom attacked Sindh and defeated Raja Dahir at the place of Deeble. The ruler of Sindh Raja Dahir was killed in the battle. In this way, Muhammad Bin Qasim was the first ever Muslim General of the Arab army who occupied some parts of India during the reign of the Umayyad Dynasty. Afterwards, Mahmud of Ghazna, commonly known as Sultan Mahmud Ghazanvid, started the 2nd phase of Muslim expansion. He first invaded in 1001 and then launched a series of raids in India till 1027. He was a brave Turkish who became Sultan. He attacked seventeen times on India. This series of attacks opened the way to the spread of Islam in South Asia. He destroyed the Hindu temples, collected wealth and spent it in Ghazna which became the centre of education at that time. During the Ghazanavid rule and the following years, Islam was spread in present-day Pakistan, India and Bangladesh by the prominent Sufis of Islam. Hazrat Khawja Moinuddin Chishti, Data Ganj Bakhsh Ali Hejveri, and Hazrat Bahauddin Zakariya Multani were among such renowned Sufis who preached spread Islam in India. These dedicated and selfless Sufis renounced the caste system and discouraged the inequality of the caste system as the hallmark of the Indian society. Before the arrival of Islam, the Hindus of India were divided

into four caste groups namely: Brahman, Kashatriyas, Vaishyas and Shudras. The Muslim saints and mystics preached the true image of the Islamic principles and removed the social class system from the society. These principles were unique which attracted a larger number of followers. A huge number of people were impressed by the Islamic teachings and they accepted Islam. It was mainly due to the golden principles of Islam and its simple way of life.

The Muslim community expanded with the passage of time. Qutub-ud-Din Aibak became the first Muslim ruler in India. He permanently established the Muslim dynasty in the subcontinent which was famous. After that, the Delhi Sultanate, Syed Dynasty, Suri Dynasty, Lodhi Dynasty and the Mughal Empire were famous Muslim ruling dynasties. These empires paved the way for the Muslim missionaries. Hence the Arab traders and Muslim Sufis introduced Islamic teachings to the people of South Asia. In this way, the entire social patterns were transformed and the Indian society received a fresh wave of ideas and knowledge with the advent of Islam. An innovative perception of the social relations as well as human interaction developed among various social groups. The emergence of a new culture of tolerance and acceptance for different was a positive change for the Indian society. Moreover, Islam proved as a blessing for the lower classes of the Indian society. The citizens from lower occupational groups who were suppressed under the existing social order willingly embraced Islam. A new strong community of Muslims came into power in the mainland of India. This community had its own understanding of life, unique culture, particular norms, moral values, acceptable customs and real heroes. The Indian Muslims developed their separate national identity due to the supreme reputation and control of Islam in South Asia. Moreover, the Hindus made many efforts to discontinue the extension of Islam. Many Hindu movements appeared with the slogan to reform the Indian society actually to halt the expansion of Islam. The attractive strength of Islam and its attractive ideology of equality and social justice defeated all the efforts of Hinduism. Deen-e-Ilahi of Akbar, even the Bakhti movement created a strong reaction and anger among the religious scholars of the Muslim community. Therefore, they launched strong efforts to preserve and defend the true essential teachings of Islam. Sheikh Ahmad Sarhindi promoted the separate Muslim identity and image of the Muslim community. He was a supporter of the Two Nation theory and favored maintaining a separate identity of Muslims from the Hindus.

The Muslims ruled over India for about eight centuries. The British traders started visiting India and gradually turned into a strong colonial power. They had to overthrow a large number of Muslim rulers and kings, notably the Mughal emperor for taking full control of India. The War of Independence (1857) was a turning point for their fortune. A large number of Indian Muslims were arrested by the British under the charges of rebellion and uprisings. With the help of Hindus,

the British pushed the Muslims back in every field of life. Such sociopolitical and economic conditions and a state of shock and crisis forced the Indian Muslims to search for their separate identity for their honorable survival.

In this time of despair, some Muslim scholars planned to promote the teachings of Islamic laws as well as their application in the Muslim society. One of the prominent and influential people in the India at that time was Sir Syed Ahmad Khan. He came forward and launched his mission to awaken the Indian Muslims well in time. His contribution to the field of education particularly the Aligarh movement was one of the best services of Sir Syed Ahmad Khan for the social mobility of the Indian Muslims during the British Raj. In 1885, the Indian National Congress was founded as an Indian nationalist party by Sir A.O. Hume worked under the British Government. The Congress worked for Hindus and openly supported the British Government in United India. The Muslims opposed the formation of the Indian National Congress. Sir Syed Ahmed Khan advised the Muslims not to take part in politics and stay away from Congress because he had realized that the Indian Muslims should not participate in activities which were anti-government. Moreover, the Congress would protect the interests of only the Hindus. Sir Syed was the first leader who used the term of two nations first time for the Muslims and Hindus. It was his apprehension of Hindu domination that sowed the seeds for the two-nation theory. After a few years, the All-India Muslim League (AIML) was founded in the All-India Muslim Conference in December 1906 at Dhaka. Most of the leaders of AIML were the graduates of Aligarh University. They wanted to safeguard the political and social rights of the Indian Muslims on the Western political lines. The aims and objectives of AIML were to remove the misunderstanding between the British Government and Muslims as well as to protect the political rights and interests of the Indian Muslims.

1.3 EVOLUTION OF MUSLIM IDENTITY IN INDIA: A HISTORICAL PERSPECTIVE:

The evolution of the Muslim identity of united India can be distributed in different phases. These phases are being discussed in the following.

Evolution of Muslim Identity in India from 712-1857 A.D.

The Muslims of South Asia moved towards their identity after the war of Independence. They had their rule for almost one thousand years in the larger part of Indo-Pakistan subcontinent. The Mughals' rule was at the peak of the Muslims' rule in South Asia. However, the anti- Islamic forces in the subcontinent were very active in the reign of Akbar, the Mughal emperor and his son Jahangir. Sheikh Ahmed Sirhindi was an eminent Muslim scholar who tried to reform what was going on wrong. He faced the deviant emperor Jahangir through the strength of his faith. Jahangir came on the right path and he made himself a religious man.

However, he could not maintain his political vigor like Akbar. After Jahangir's death (1627 A.D) Shah Jahan took the throne. Aurangzeb Alamgeer succeeded Shah Jahan after killing his three brothers including Shuja, Murad and Dara Shikoh. Aurangzeb Alamgeer proved the last emperor of the Mughal Dynasty who had run the kingdom's affairs with strong hands. After his death in 1707 A.D., the Mughal dynasty came to a sharp downfall. After a half century of his death in 1757 A.D.; the battle of Plassy brought a great victory for the British and East India Company. The same battle also proved the real downfall for the Muslims of the subcontinent. Some of the religious scholars held the view that this downfall of the Muslims was the result of the deviation of Muslims from the way of the Holy Prophet of Islam. The future of Indian Muslims looked really bleak, at that time. The political collapse of the Muslims was the outcome of spiritual confusion in the socio-economic sphere of the Indian Muslims.

The battle of Plassy was fought between the British and the Nawab of Bengal on 23rd June 1757. It was not the first war of Muslims with the British of course, but the most important Anglo-Muslims war. The Nawab Sirajuddolah of Bengal lost the war because of the sudden fall of his commander Mir Mardan. Nawab took advice from Mir Jaffar in this regard; who already had committed his loyalty to the British. So, Mir Jaffar and his army remained inactive in the battle as they had made an agreement with the British. Mir Jaffar recommended Nawab Siraj to retreat for that day. The war was stopped by both sides but suddenly Robert Clive attacked when the soldiers of Siraj were going back to the camps. Consequently, Nawab of Bengal fled the battlefield on a camel due to the treason of Mir Jaffar, but he was soon arrested by the men of Mir Jaffar.

The British East India Company had won some other battles before the battle of Plassy. Among them, the first was the Battle of Swally against the Portuguese in the last week of November 1612. This was the start of the fall of Portugal's commercial monopoly over India. British East India Company under the combat leadership of Robert Clive won another war in 1751 commonly known as the Siege of Arcot. The Battle of Golden Rock was also won by the British East India Company against French troops assisted by Nawab Hyder Ali of Mysore. This was the first remarkable victory of the British against Indian Muslim rulers. The defeat of the uese Portuguese and French forces in India at the hands of the British led to a series of wars between the imperialist power and the locals. British occupied other states of India one by one and finally they got finally decisive victory over the Indians in the famous War of Independence, one hundred years after the Battle of Plassy.

Under the leadership of Robert Clive, after winning the battle of Plassy (1757) and the battle of Buxar in the province of Bihar (1764), the British assumed great power to control the Indian subcontinent. British had keen interests in the Bengal due to its commercial viability as the British gained 60 percent of Asian imports

from Bengal. After the battle of Buxar, the British won the political and revenue collection powers in Bengal and Bihar as well as in Orissa. The second Anglo-Mysore war was started in 1780 and ended in 1784. Hyder Ali died in 1782 due to cancer. After the death of Hyder Ali, his eldest son Fateh Ali Sahab Tipu (famous as Tipu Sultan: 'Tiger of Mysore') carried on the battle against the British. On 11 March 1784, the war was ended and the Treaty of Mangalore was signed. According to the agreement, both groups agreed to the point of restoring the status quo ante bellum. This peace treaty is considered a very important document in the history of the subcontinent as it was the last occasion when the Company accepted the terms as dictated by an Indian power. The third war of Mysore was fought between 1790 A.D. to 1792 A.D. between the British and Tipu Sultan. At the end of the war, an agreement was signed on 18 March 1792. This peace agreement in the history is called as Treaty of Srirangapatinam (also called Seringapatam). Tipu provided half of his kingdom to the British, Marathas and the Nizam of Hyderabad. The fourth and final decisive battle was fought between the British and Tipu Sultan, Tipu fought bravely in the battle and as a result he lost his life during the war on 4 May 1799. His young heir, Fateh Ali and other family members were arrested and sent into exile to Calcutta. British got indirect control of Mysore.

The East India Company (EIC) had its private army of about 260,000 by 1803 and that was two times of the British army of that time. The company had planned to gain administrative control of the vast areas of the Indian subcontinent through the private armies. The EIC kept her control for around a century from 1757 to 1857 in this way. The third battle of Delhi was fought in the year 1803, between the British East India Company and the Marathas and it resulted in the victory of the Company. Delhi remained under the control of the Company till the War of Independence in 1857; and after this War, it came under the direct control of the British Crown. Sindh was conquered by Sir Charles James Napier (General) and fell under the control of the East India Company in the year 1843. In the Punjab, Maharaja Ranjit Singh died in 1839; after his death, the Punjab Empire also commenced to fall. His son Maharaja Sher Singh was killed in September 1843 by his cousin Ajit Singh Sindhanwalia who was an army officer. The 'golden period of the company' spread over a century from 1757 to 1857. During the same period, the company came into power; and it was able to snatch various princely states from the local rulers. Within a few years, a wide area of the subcontinent came under the rule of the East India Company gradually. During this phase (the second period of fast expansion), the Presidency Towns were called Presidencies of British India. However, the company was unable to maintain its real mercantile status and sovereignty till the end of the period. The third period was started in 1857 with the War of Independence, as a result of the War, the East India Company lost its status; because then India came under the British Crown. The sovereignty of the British was extended to many other areas of the Indian subcontinent. Thereafter the

Presidencies were divided into provinces. The period ended in 1947 as the result of the 'Transfer of Power' to the Indians.

From 1857 to 1947, the period of 90 years proved very tough for the Indian Muslims. During this phase, the Muslims of South Asia remained in search of their separate Muslim Identity as a nation. During this period, various incidents happened but some important incidents are being discussed in the following.

HINDI-URDU CONTROVERSY

Most linguistic scholars agree that the Urdu language is a product of the Hindu-Muslims interaction in the South Asia. Actually, Urdu is a combination of various languages like Persian, Hindi, Turkish, Arabic and others. Dr. Abu-ul-Lais Siddiqi argues that Urdu was actually the product of Hindu-Muslim relations and social communication. On the other hand, K. K. Aziz is of the opinion that Urdu had borrowed more freely from Persian and Arabic. However, some of its sweetest phrases had been derived from Hindi; therefore, it was always perceived as the language of the Indian Muslims. Particularly, since the reign of Mughals, the Persian script was used in court business, and that resembled much to the Arabic scripts, give and take among these languages was easy. In short, we can say that Urdu developed in the subcontinent due to the joint efforts of Hindus and Muslims. However, the Hindus contributed more than the Muslims as the Muslims were their ruler; therefore, the Hindus used various Persian words in Urdu as well as in Hindi to please their masters. The British also contributed remarkably to the promotion of the Urdu language and literature in the subcontinent. They established Fort William College at the beginning of the 19th century (on 10th July 1800) at Calcutta within the Fort William Complex. It was established by the efforts of Lord Wellesley, who was the Governor General of British India at that time. The books of local languages were translated into English as well and the new books were written in Urdu language. The college proved not only a platform for the scholars but also a training centre for the British officers to get command of local Indian languages. Muslims had a great attachment to Urdu and wanted its progress as they were then in the minority and a sub-ordinated position, too. Persian remained the official language of India for many centuries but it was replaced by Urdu in 1837 by the British. However, in North India (it includes the states of Punjab, Haryana, Uttar Pradesh and Bihar, Uttarakhand, Himachal Pradesh, Jammu and Kashmir and the Thar desert) Urdu in its own Urdu script was implemented as a replacement for Persian instead of promoting Hindi in DevaNagri script. As a large number of Persian words had become part of Urdu, the Indian Muslims had evolved an emotional attachment to Urdu. So, they welcomed this decision taken by the British government. Though it did not trigger any pressure from the Hindus with the passage of time the tension continued to grow. The most immediate reason for the controversy was the conflicting language policy by the British in North India in the 1860s. The government motivated both Hindi and Urdu languages as a medium of education in schools, but it enhanced the desperation of Hindi or Nagri

script for official purposes. It gave rise to the dispute between the students educated in Hindi and Urdu for the achievement of government jobs; the dispute ultimately converted into communal tension. In 1867, some Hindus from the United Provinces of Agra and Oudh started demanding that Hindi should replace Urdu as an official language. As time passed by, the issue became religious and cultural instead of linguistic. Finally, it gave rise to communal riots. Ten years after the War of Independence; in 1867, the Hindus started a movement against Urdu from Banaras. Babu Shiva Prasad was one of the early advocates of the Nagri script. In 1868, through a memorandum on court characters, he charged that the early Muslim rulers forced them to learn Persian. This tussle separated the ways of Hindus and Muslims forever. Why do the Hindus want the implementation of Hindi in offices? As Persian had become the language of an elite class of Muslims and Urdu was the official language, therefore, the Muslims had secured better jobs than the Hindus at that time, which was not acceptable for the Hindus. Initially, the Muslim community and its leaders showed the tolerance and patience. Sir Syed Ahmad Khan was one of the well-known Muslim leaders and an advocate of a composite Indian nation. He was in favour of friendly relations between both nations. Therefore, he was also in favour of strengthening the cultural bonds between the Hindus and the Muslims as he thought that India would make no progress without it. He wished to see both nations living united in the subcontinent. He expressed his feelings in the following words:

'India is the motherland … for both of us (that is the Hindus and the Muslims) who breathe in the same air, drink the water of the holy […] rivers of Ganges and Jumna and consume the product of the same soil. Together we face life and death. After dwelling long in India our blood has changed its original colour. Now the colour of our skin is the same; our features are alike. We, the Muslims and the Hindus have exchanged many of our social customs. We have merged so much into each other that we have produced a new language – Urdu –which was the language of neither of us'. Sir Sayed Ahmed Khan also declared Hindus and Muslims like a bride. He said 'I look to both Hindus and Muslims with the same eyes and consider them as two eyes of a bride. By the word nation, I only mean Hindus and Muslims and nothing else. We Hindus and Muslims live together under the same soil under the same government. Our interests and problems are common and therefore I consider the two factions as one nation.'

Now Sir Syed Ahmad Khan started his struggle for the development of Urdu. Once he was sitting with Mr. Shakespeare, the Commissioner of Banaras. They were deliberating on the Muslims' educational issues. He looked at Sir Syed amazingly and asked, it is the first time that I have heard your discussion specifically about the Indian Muslims. Before this, you consistently spoke about the welfare of the common Indians. In response to the question of Mr. Shakespeare Sir Syed was forced to speak out that it was an occasion when he believed that both

communities would not put their hearts in any project together. It was just the beginning and in all times to come an ever-growing hatred and bitterness appeared on the communal scene of India because of the educated classes.

SIMLA DELEGATION

The Indian Muslim leaders organized a group of 35 most effective members and they met Lord Minto, then the Viceroy (the viceroy was the representative of the British Government or may be called the governor general), to present their demands. These demands were a part of their political struggle. The deputation was planned for many reasons; some of which are described in the following:

Local Bodies System (1883):

The system of Local Bodies was introduced in 1883 under the Albert Bill by the viceroy Lord Ripen. Setting up Municipal Committees and District Boards were introduced in this Bill. However, only those who were wealthy or highly educated could vote for the local bodies. Those Muslims who were very small in numbers could not vote even in the areas of Muslim majority due to their poverty and less education.

The Indian Councils Act 1892:

According to this Act, the size of various legislative councils was increased in British India. This Act did not prove useful or beneficial for the Indian Muslims as they remained deprived of representation. Sir Syed Ahmad Khan had already rejected the system of joint electorate in the year 1883.

Change in British Politics:

In the year 1905, when the Liberal party came into power in Britain; Lord Minto was appointed as Viceroy of India. The Indian Muslims were in search of a better chance to present their demands.

Partition of Bengal:

Lord Curzon, having a good administrative record served as the Viceroy of the British continent from 1899 to 1905. He partitioned the Province of Bengal in 1905 for administration purposes. A Lieutenant Governor was appointed for the administration. The population of Bengal was almost 70 million as it included the Bihar and Orissa also. Millions of inhabitants were underprivileged in Bengal and its surroundings. Its economy was dominated and controlled by the capitalists of Calcutta at that time. Lord Curzon divided it and created a new province of East Bengal. The new province included Aasam, Dhaka, Rajshahi and Chittagong Divisions with a Muslim majority. West Bengal included the areas of Bihar and Orissa, where the Hindus were in the majority. Muslims gained prosperity and happiness in the wake of this division as they were in an advantageous position in

the East Bengal. Dhaka was the centre of Muslim culture and economy. This step of Lord Curzon ignited fury among the Hindus who never liked the progress of the Muslims. In response to this, they started violence and launched the Swadeshi Movement; to nullify the division of Bengal. The British, policemen and magistrates were killed in bomb blasts and attacks. The British were frightened by these activities of Hindus but the eyes of Muslims got open with this response so they demanded for the Separate Electorate in the future after the partition of Bengal.

Meeting with Lord Minto:

The Muslim leaders had decided to see Lord Minto, so they met him on 1st October 1906, the Muslim leaders welcomed Lord Minto with enthusiasm and stood in his honour when he entered the room. After the introduction, the delegation leader Sir Agha Khan presented his address in which he praised for British government and accepted that the British have been looking after the interests of all races, religions and communities in India. He then claimed that the Muslims are a nation. He introduced the Muslims as the "Mohammaden Community" in his address. Sir Agha Khan reminded in this address that according to the census of 1901, the population of Indian Muslims was more than 62 million and that was 20 to 25 percent of the total figure. He reminded that the Muslims had a valuable political importance in the past. They also played a remarkable role and contributed to the defense of India as they served in the British army. He further explained that the Muslims had been ruling in India with the implementation of justice and fair dealings.

Demands by the Muslims:

In short, Simla Deputation was a remarkable step for Muslims in the political history of India. In this delegation, they demanded the security of their rights for the first time from the British. Their demands were as follows.

1. System of electoral institutions in which the Muslims would have the right to choose their own separate representatives in the constituencies. In other words, they demanded the right of a Separate Electorate. It means that the seats should be reserved for the Indian Muslims and the representatives must be elected through only Muslim voters. There were two reasons for these demands: first, the relations between the Muslims and Hindus were so sour that no Hindu could be the real representative of the Muslims at that time. Second, no Muslim was able to be elected through the joint electorate system. There was fear of fighting and riots between the Hindus and Muslims in this situation. In the early 1906, Lord Morley said during the session of the British House of Commons, that it had become necessary to establish a legislative council in which the Indian representatives may be included through electorates. Therefore, the governor-general of India would form a committee soon and it would develop the recommendation in this regard. The Muslims

thought that in this case the constituencies would be created on the basis of areas and as a result, the Muslims would be unable to elect their representative. The Hindus will not vote for any Muslim leader but if any Muslim leader r acquires the seat with the cooperation of Hindu voters; he would not be able to be a real representative of the Muslims. On the other hand, the Muslim voters will be very few in number as they were unable to qualify for the terms and conditions of wealth and education which would be the sole criteria for voters.

2. Keeping in view the historical importance and political position of the Indian Muslims, the Muslims should be awarded more representation than their population. This was called 'weightage'. This demand had also two reasons behind it; first, the Muslims had ownership of a larger portion of lands in India. Second, a large number of Muslims had been serving in the Indian Army. The Muslims requested to restore their seats not only on the basis of their population but political value of their past. It must be kept in mind that their political importance was one hundred years ago in India. It means that Muslims are a separate nation; they ruled for centuries in India and they played a vital role in the British army also. Therefore, it would be a serious mistake to declare them as a minority; if they have to live like a minority, they would be granted weightage to maintain their individualism.
3. The Muslims also demanded the reservation of gazetted and non-gazetted seats for them in government institutions. At the beginning of the 19th century, the government changed its policy under which the Muslims were removed from the official jobs. Muslims remained backward in western education; however, in the last quarter of the 19th century, they had succeeded in getting some higher education but Hindus had occupied all the institutions by then. In 1906, very few Muslims were in the official posts.
4. They demanded the appointment of Muslim judges in high courts and chief court.

   There was only one Muslim Subordinate Judge out of 42 and 13 Muslim Deputy Commissioners out of 75 from Bengal. Likewise, in Bombay, there was only one Subordinate Judge belonging to the Muslim community out of 18. That was why, the Muslims demanded reservations for their seats.
5. The members of the delegation asked for the representation of Muslims in the Viceroy's Executive Council, too. In those days, there was no concept of 'one man one vote', as the voters were very less in numbers. The Muslims demanded an electoral college through which Muslim leaders, lawyers, traders and other professionals could be elected.
6. They concentrated that the seats should be reserved for Indian Muslims in the universities' senate and syndicates to grant them a share in administration.

7. It was demanded that financial assistance or funds be granted for the establishment of an independent Muslim University in India.

Minto's Attitude:

Lord Minto showed favourable attitude to the delegation and supported them emotionally and politically. He assured that he would make his efforts for the protection of Muslim's rights. Minto accepted the demand for a separate electorate for Muslims. All the demands made by the Muslims depended on the fact that Muslims were a separate nation. Lord Minto wanted to remove the Muslims' discomforts. In fact, this was the right time for the Indian Muslims to raise their voice. The British had focused on constitutional reformations due to Hindu-Muslim conflicts. The Muslims succeeded in proving that they were unable to trust the Hindu majority. Moreover, their demand for a Separate Electorate indicated that the Muslims had decided to prove themselves as a nation on a political basis instead of religious; as they were not ready to be absorbed within Hindu nationalism. Their demand for a separate electorate actually was the political base of the Two Nation theory. At last, the British government accepted them as a separate nation when they were awarded the right of a Separate Electorate in the upcoming reforms.

ESTABLISHMENT OF MUSLIM LEAGUE

The establishment of the Muslim League was not a sudden decision or idea. It was the need of Indian Muslims on the base of previous experiences. Before the formation of the Indian National Congress, the Indians had developed resentment towards the British as they had become politically aware due to the efforts of their native leaders. Surendra Nath Banerjee, an Indian civil officer, was terminated from the services due to a minor mistake. He then entered the politics and established an 'Indian Association' in 1876 in Bengal. He (S.N Banerjee) also established an organization called 'Indian National Conference' in 1883 for the purpose of solving the political issues. British Indian Association was established by Sir Syed Ahmad Khan in 1886 at Aligarh. The attitude of the government was different for the European and the Indian officers working as civil servants. This discriminatory attitude became the reason for to spread of political agitation in natives and the agitation converted into a national movement at last.

Allan Octavian Hume was a retired civil servant, who wanted to divert the agitation of Indians to the constitutional struggle. In this regard, he was working on the wish of Lord Dufferin (Governor General of India at that time). In the last week of December 1885, the Indian National Congress came into existence due to the struggle of A.O. Hume. The first session of the Congress was held in Bombay from 28th to 31st December 1885, with the approval of Viceroy Lord Dufferin. Womesh Chandra Banerjee presided over it and there were only two Muslim delegates out of seventy-two. Representation of only two Muslims in the party indicated that Congress was a Hindu-

dominant party right from its birth. The British had the credit of its formation and there were of course Hindu leaders who expressed their loyalty towards them.

This was the mutual understanding of Hindus and the British as the government showed an attitude of kindness towards the Hindus. As long as the British were satisfied with Hindus' sincerity, they showed sympathy but when Congress raised its demands for political changes, it was disliked by its pioneers, as Lord Dufferin declared it a 'microscopic minority' at the time of his retirement. Long before the establishment of Congress, Sir Syed Ahmad Khan had recommended Muslims not to take part in politics. He advised Muslims to acquire education and emphasized modern education. Sir Syed expressed his concerns at the establishment of Congress and the Muslims, true to his advice, remained far from the Congress as well as from politics till the end of the 19th century. However; with the beginning of the 20th century the situation began to change. Hindus' attitude towards the partition of Bengal was enough to open the eyes of the Muslims; they decided to take part in politics now. They gathered for the protection of their political rights. They met Minto at Simla in 1906, where they demanded the right of a Separate Electorate. During their stay at Simla, the Muslim leaders discussed the matter and shared their ideas to establish their own political platform. In 1900, a letter from Moulvi Mehdi Hassan was published in a newspaper in which he expressed that Sir Syed advised Muslims not to take part in politics but actually, he wanted to keep Muslims away from Indian National Congress.

Formation of Muslim League:

After the meeting of the Simla Deputation, the Muslims thought that they should establish their own party, through which they could raise their voice to the government. Sir Agha Khan, Nawab Mohsin-ul-Mulk and other prominent Muslim leaders showed their interest in the establishment of an institute for this purpose. Syed Ameer Ali stressed establishing their separate political party. Nawab Saleemullah Khan was not present in Simla Deputation; however, he presented a scheme of 'All India Muslim Confederacy', with the aim of controlling the impacts of Congress on Muslims. The 20th annual session of the Muhammadan Educational Conference was held on 30th December 1906 at Dhaka, where most of the Muslim leaders expressed their wish for the establishment of a separate Muslim political party. This was a historical political gathering of the Indian Muslims. It was the very right time for the Indian Muslims to establish their own party. At the end of the conference, in the same evening, a meeting was held under the presidentship of Nawab Wiqar-ul-Mulk.

Aims of League:

All India Muslim League had the following three aims at the time of its inception:

1. To promote the feelings of loyalty among the Indian Muslims towards the

British Government and to remove misconceptions among Muslims regarding the British.

2. To protect and advance the political rights and interests of the Indian Muslims and present their needs and aspirations to the British in a respectful manner.
3. To protect the Indian Muslims from developing any feeling of hostility towards other communities without prejudice to the other above-mentioned objects of the League.

Some writers have the opinion that the Indian National Congress was now demanding the autonomy; and at the same time, the British needed another party which could express complete loyalty toward them. Due to the efforts of the British 'All India Muslim League' was formed. But Ishtiaq Hussain Qureshi rejected the idea of this group of writers and expressed his views that, of course, Congress was formed by the efforts of A. O. Hume. Contrarily, the creation of the Muslim League was the compulsion of Indian Muslims to protect their political and economic rights. It was not formed on the encouragement of Lord Minto, as many writers claimed but the fact is that Muslims had decided long before. However, the League was also welcomed by the government as much as Congress.

Jinnah and League:

Muhammad Ali Jinnah joined the All India Muslim League in March 1913, but before it in the year 1912, General Secretary of the All India Muslim League, Mr. Wazir Hassan, wrote a letter to Jinnah in which he invited him to attend the upcoming meeting of the AIML Council. Due to his expertise in constitutional and political matters, he was invited to attend the meeting, although he was not a member of the League but was a well-respected Muslim Leader. Jinnah accepted the offer and attended the annual meeting of the All India Muslim League held in December 1912 and addressed it. In the following year (1913), he joined the All-India Muslim League but remained the member of Congress simultaneously. In April 1913, Jinnah left for England with Gokhale (a Hindu leader) where he founded the London Indian Association. Stanley Wolpert wrote in his famous book 'Jinnah of Pakistan that Gokhale stated that Jinnah 'has true stuff in him, and that freedom from all sectarian prejudice which will make him the best ambassador of Hindu–Muslim Unity'.

In fact, this was Jinnah who guided not only the Muslim League but the Muslim leaders also. He was the only superior leader who raised the spirit of Indian Muslims. He succeeded in bringing the Muslims and Hindus to one platform and was appreciated by every prominent leader of the subcontinent. He was awarded the title of Ambassador of Hindu Muslim Unity' by Mrs. Sarojini Naidu; former President of Indian National Congress. This is a matter of concern that Jinnah, the Ambassador of Hindu-Muslim Unity was completely disappointed by the attitude of Hindus and

their representative party; the Indian National Congress. He had been working for the unity of Indians for more than 30 years; however, in response to the Nehru Report, he separated his way from the Congress and decided to leave not only Indian politics but also India with a broken heart. He decided to settle down in London, permanently after the First Round Table Conference. But he returned to India in 1934 through the efforts of Allama Muhammad Iqbal. He changed his attitude and then he decided to work for the sake of Indian Muslims instead of Hindu-Muslim Unity. He proved himself the sole spokesman of the Indian Muslims and eventually succeeded in establishing a separate Muslim State for the Indian Muslims.

MINTO-MORLEY REFORMS (INDIAN COUNCILS ACT 1909)

After the War of Independence of 1857, the Prime Minister of the United Kingdom (U.K) Lord Palmerston (The Viscount Palmerston) claimed through a bill that the current structure of the government of India was full of faults and defects. Therefore, the power should be transferred from the East India Company to the Crown. After thorough discussion, the bill was approved and the power was transferred from the East India Company to the British Crown. The Act was passed on 2 August 1858 by the Parliament of the United Kingdom and it was titled 'The Government of India Act 1858'. Now an exceptional post of Secretary of State for India was created through the cabinet. The Secretary of State for India was authorized about the matters of government and revenues of India. On November 1, 1858, Queen Victoria announced the official termination of the sepoy mutiny and proclaimed the formal opening of the British Raj through a Royal Proclamation, addressed by many as 'the Magna Carta of India'. The first ever constitutional structure for India was formulated under the 'Government of India Act 1861'. The same was also called the 'Indian Councils Act 1861', through which superior provisions for the Governor-General's Council and for local government were introduced. After the War of Independence, the British started developing a Parliamentary Government on Indian soil. It was provided that the Governor-General's Executive Council would contain five Ordinary Members; three of them would be those who must have served for ten years in India either under the Company or the Crown; and one of them would be a Barrister or Advocate having five years of experience. The Secretary of State for India reserved the power to appoint Commander-in-Chief as an Extraordinary Member of the Executive Council. For legislative purposes, it was provided that the Governor General could nominate Additional Members to the Council. However, the nominated members would be between six and twelve; and half of these were to be non-officials. Although the Indians were included in Central Legislative Council but in the matters of legislation, effective powers were reserved to the Governor-General. The birth of the Indian National Congress took place in 1885 and the Congress had raised its voice for the expansion of Legislative Councils.

The ‘Indian Councils Act of 1861’ could not satisfy both the Indians and the Congress as the Indians had failed to influence the government’s decisions. The next reforms were brought under the Indian Councils Act 1892. The ‘Indian Councils Act 1892’ was the result of a national movement. At that time, when the ‘Indian Councils Act 1861’ was introduced, the people of India thought that the Indian members would influence the decisions of the Government. The Councils were to have the power to discuss the annual statement of revenue and expenditure, i.e., the Budget and address questions to the Executive. The ‘Indian Councils Act 1892’ provided that the Additional Members (non-official) should not be less than ten and more than sixteen in Central Legislative Councils. This number was between six and twelve in the previous Act. On the other hand, the representation of non-officials in the Provincial Legislative Councils was abolished now. Finally, this Act also proved disappointing for the Indians as the Council contained 24 members and out of them only five members were Indians.

The Indian Councils Act 1909, is known as Minto-Morley Reforms in the history. Lord Morley was the Secretary of State for India’ while Lord Minto was the ‘Viceroy of India’ at that time. According to their backgrounds, characters and applied work and experiences, Lord Morley and Lord Minto, obviously were very dissimilar in respect of their nature and background but on the other hand, they had the same perspective in developing policies in the Indian context. In the summer of 1906, when it was suggested to introduce some constitutional reforms in the second half of the same year, Lord Morley remained serious and gave special attention to the formulation of the next installment of constitutional reforms. He remained closer with Lord Minto (the Viceroy), and Minto on Morley’s behalf, constituted a committee to go into details and prepare a report. The report was ready by early 1907 and was sent to London in the same year on 19 March. It helped as the basis of the reforms which were turned into law by the ‘Indian Councils Act 1909’.

Election’s Method:

The method of election was partly indirect and partly direct. Some members were to be elected through an election system and the remaining were to be nominated.

Additional Members:

The Act increased the strength of the Central and Provincial Councils in centre. Besides the Viceroy and his Executive Council, nearly 60 members were added to the Central Legislative Council (it was an extension from 16 to 60). These were named as additional members. Moreover, reforms were also brought for Provincial Councils and under this Act these Councils were enlarged up to a maximum of 30 and 50 in the smaller and larger provinces respectively.

Official and non-Official Members:

In the Provincial Councils, small non-official majorities were provided; however, at the Centre an official majority was retained like before. In Central Legislative Council (or Imperial Legislative Council), there were 37 official and 32 non-official members. Official Members included 9 ex-officio and 28 additional officio members. Out of 32 non-official members, 5 were nominated by the Government: the Secretary of State and Governor General: Two Indians were nominated to the Council of the Secretary of State for Indian Affairs. The Governor General was empowered to nominate one Indian member to his Executive Council.

Members Power:

Members of the Council could raise questions relating to administration and policy, but the Government had a permanent statutory majority in the house. The purpose of this majority was to limit the Indians' power. During the discussions, questions were allowed but queries could be disallowed without any reason. Resolutions could be moved, but they had no binding force. This was of course, not a power of members but indeed was a step towards powers for the members.

Councils' Powers:

The Councils were still regarded as durbars rather than as parliaments. Morley told the House of Lords that 'if it could be said that this chapter of reforms led directly or necessarily to the establishment of the parliamentary system in India, I for one would have nothing at all to do with it'.

Muslims' Benefits:

It was the first chance for the Muslims, in the history of British India that the most important change brought about by the Morley-Minto Reforms was the establishment of separate electorates. Their demand through the Simla Deputation was met and a system of separate Muslim representation was introduced in this Act. All Hindus and several British observers of the Indian scene argued that the creation of a communal electorate was an infringement of democratic principles.

Hindus' Reaction to the Act:

The Hindu politicians and the Congress immediately started a movement of disapproval and obstruction. At the 1910 gathering the Congress condemned the provision of separate representation for the Muslims and demanded the removal of such 'anomalous restrictions between different sections of His Majesty's subjects in the matter of the franchise'. From the session of 1910 to the passing of the 1935 Act, except for 1916 (Lucknow Pact), the Congress made it a routine to pass a resolution in its sessions in condemnation of separate electorate.

Muslims' Reaction:

It was a great pleasure for the Indian Muslims that they had succeeded in their petition. That was their first abundance after the establishment of the All India Muslim League. This infused a new spirit among the Muslims of the subcontinent. The Muslims had now come to understand and appreciate the insight of Sir Syed Ahmad Khan; they were going to become a nation in a political way.

LUCKNOW PACT (1916)

A pact is a term that refers to a formal agreement between two (or more than two) countries or states. It also includes an agreement between any two or more groups or persons either to help each other or not to fight each other. The Lucknow Pact (1916) is the most famous Pact decided between the two major parties of the subcontinent; the All India Muslim League (AIML) and the Indian National Congress (INC). Muhammad Ali Jinnah joined the League in 1913 and became the part of Muslim political party but he also decided not the leave the Congress. He wished to keep Hindus and the Muslims united in the subcontinent. He viewed that both communities should live together and struggle to get freedom from the British. The Muslims were against the British government due to two reasons. First, due to the reversal of the partition of Bengal (1911), second, in 1914, the First World War (FWW) began; due to war of Balkan, the British were against Turkey (the last country with a caliphate). The rift between two nations (British and Muslims) was acute in those days and Jinnah was the political personality who wanted to keep them united.

Muhammad Ali Jinnah then was an active participant in the Congress as well as the League. He joined the League but did not leave Congress. AIML added the self-rule for India in 1913 in its objectives as Jinnah wished. This made Jinnah more popular and prominent among the Hindus and Muslims rather than the British. Jinnah wished the authority of Indians to run their country on one side and he wanted to protect Muslims' political and social rights on the other. He tried to gain more political power for the masses of the subcontinent to run their country. He believed that the objective of self-rule might be achieved in response to an agreement between the two foremost political parties in the British India.

The Congress came to the conclusion that AIML was the sole representative political party of the Indian Muslims while the former could not claim for all the communities and minorities. Jinnah was able to get the point that INC never represented all the communities of India, especially the Muslim community. He used the platform of AIML to interpret and demonstrate the views of the Muslims. Both parties had their sessions at Lucknow in 1916, in the last days of December; then All India Muslim League was led by Muhammad Ali Jinnah while the Maratha leader, Bal Gangadhar Tilak presided over the Congress. Mr. Jinnah got success to

manage to convince both parties about the future of British India. Jinnah supported the point that the Hindus and Muslims must live in harmony and should struggle against the British Government to achieve self-government in India. Jinnah became the president of the AIML only after three years of his joining the party. It raised the status of not only Mr. Jinnah as a political leader but of the League as a party, too, was exalted.

In his presidential address, M.A. Jinnah said: 'I may say a word as to the attitude of the Musalmans of India towards the Government. Our clear duty is to be loyal and respectful, without stooping to a cringing policy. We want no favours, and crave for no partial treatment. That is demoralizing to the community and injurious to the State. The Musalmans must learn to have self-respect; what we want is a healthy and fair impetus to be given to our aspirations and ideals as a community, and it is the most sacred duty of Government to respond to that claim. Towards the Hindus, our attitude should be of good-will and brotherly feelings. Cooperation in the cause of our Motherland should be our guiding principle. India's real progress can only be achieved by a true understanding and harmonious relations between the two great sister communities. With regard to our own affairs, we can depend upon nobody but ourselves. We should infuse [a] greater spirit of solidarity into our society. We should remove the root causes and the evil effects of the process of disintegration. We should maintain a sustained loyalty to and cooperation with each other. We should sink personal differences and subordinate personal ambitions to the well-being of the community. We must recognise that no useful purpose is served in petty disputes and in forming party combinations. We should not lose the sympathy of our well-wishers in India and England by creating a wrong impression that we, as a community, are out only for self-interest and self-gain. We must show by our words and deeds that we sincerely and earnestly desire a healthy National unity.

For the rest, the seventy million Musalmans need not fear.' The committees of AIML and the Congress presented their constitutional schemes. After thorough discussion an agreement was settled between both parties; they accepted major demands of each other to compress the Government. The most considerable attainments of this Pact are as under.

1. It was the first time when Congress recognized that the Muslim League was a representative political body of the Indian Muslims.
2. The Lucknow Pact is measured as an extraordinary milestone in the history of the subcontinent as the Hindus accepted the distinction of Indian Muslims; however, the Muslims had already been granted the right of a separate electorate in the Indian Councils Act 1909.

3. It was the first time that Muslims were granted separate electorates in the provincial and Imperial Legislative Council. Hindus agreed on the separate Muslim electorate.

4. Muslims were allowed to elect their own representatives through separate electorates; in this way, they had not been awarded the right to vote in the non-Muslim communities. However, an exception was made in the case of the special interests constituencies where Muslims had the right to cast the vote.

5. It was decided that a few seats shall be reserved for the Muslims in Hindu-majority provinces; on the other hand, the Hindus shall be given safety in the Muslim-majority provinces.

6. The Muslims succeeded in reserving one third (33 percent) of seats in the Imperial Legislative Council, 50% of the seats in Punjab, 40% of total seats in Bengal, 33% of seats in Bombay, 25% of seats in the U.P. and 15% each for the Central Provinces and Madras assemblies.

7. It was decided that provincial autonomy would be awarded to the provinces while measures would be taken for the solutions for the communal issues.

8. Both of the parties agreed to the point that no resolution could be presented and passed in the assembly which harms the interests of the other community.

9. The Muslims who were in dread of losing their Islamic and cultural identity were now guaranteed that no bill or a resolution presented by a non-official member would harm/affect them.

10. They were guaranteed additional seats than their population ratio in the Center and minority provinces. However, they were deprived of some seats in Punjab and Bengal. The Muslim majority remained less effective in the coming days in these two provinces.

Lucknow Pact proved to be an important advancement towards the Hindu-Muslim unity. Both the parties unified together to avoid any misperception against the British for the sake of the self-government. The reform schemes were accepted by both the parties with open hearts at that time. Jinnah was the actual originator and architect of the Lucknow Pact. This settlement between the Congress and the League was the result of Jinnah's efforts; due to his endeavor, he was awarded the title of 'the Ambassador of Hindu-Muslim Unity' by the well-known Indian poetess, Sarojini Naidu (famous as Nightingale of India). This Pact proved as the pinnacle of the Hindu-Muslim association in the history of British India.

DELHI MUSLIM PROPOSALS

At the end of the Khilafat Movement, the Congress was going to lose its

influence in the Indian Legislative Assembly. Therefore, the Congress president of that time, Srinivasa Iyengar; approached Mr. Jinnah to cooperate for upcoming Indian constitutional proposals. He was looking for cooperation between two parties—the All India Muslim League and the Indian National Congress—like the Lucknow Pact. Mr. Jinnah, as he remained too positive for Hindu-Muslim relations in his entire political career, responded well. Muhammad Ali Jinnah believed that the Indian Muslims could not make progress unless the communal atmosphere improved. The sovereign government of India will only be possible when both the Hindus and the Muslims live together. Jinnah, in fact, was the true ambassador of Hindu-Muslim unity. In this context, the Lucknow Pact was the true result of Jinnah's real efforts. Although there were disturbances in Hindus-Muslims' relations after 1921-22 but Jinnah had been trying to maintain this unity. In the annual meeting of the Muslim League held in 1924 at Lahore, the bitterness of Hindu-Muslim relations was expressed through a resolution and the importance of Hindu-Muslim unity was re-emphasized.

Jinnah also had his personal opinion that it was necessary to promote unity among the Indians; his view was that without unity, the political rights of Indian people could not be secured and the freedom of India was impossible.

The Hindus had accepted the right of a separate electorate for the Muslims in 1916 during the Lucknow Pact; however, most of the Hindus considered that the separate electorate would be an obstacle to the national unity and solidarity. Jinnah also had the opinion that the Muslims can't be neglected by the Hindu majority as in this case the system of democracy in India will fail. He thought that Muslims may withdraw from the claim of a separate electorate if Congress accepted the other demands of Muslims. The same statements were repeated in the annual session of the League in 1925 at Aligarh. Due to insecurity felt while living with a Hindu Majority, the Muslim League demanded for separate electorate to protect the Muslims' rights while Congress upheld the slogan of a Joint Electorate; with the claim that a joint electorate would guarantee the Indian nationalism. Maulana Muhammad Ail Jauhar, Sir Ali Imam, Dr. Mukhtar Ahmed Ansari, Mufti Shafi and other prominent leaders joined the session. The Muslim leaders had the judgment that the superior constitutional conflict between the Congress and the League was a matter of electorate.

On 20 March 1927, Jinnah called a conference of Muslim leaders in Delhi. Thirty prominent Muslim leaders gathered at the meeting in Delhi; Jinnah presided over the meeting. The Muslim Leaders and Jinnah realized the fact that the common agenda with Congress would be only possible when the League eliminated her demand for a Separate Electorate. After a lengthy debate and arguments of almost seven hours, the Muslim Leaders and Jinnah agreed on the point that they should reach an agreement with the Congress on the basis of certain proposals; they

concluded the ‘Delhi Proposals’ document. At the end of the session, the Muslim leaders and Jinnah confirmed that they were ready to withdraw the demand for Separate Electorates if the Congress would be ready to accept the following proposals or demands. These demands are known in the history as Delhi Proposals or Delhi Muslim Proposals.

The proposals were:

a. Sindh should be separated from the Bombay Presidency and awarded the status of a separate or independent province.
b. Reforms should be introduced in the North-West Frontier Province and in Baluchistan on the same footing as in any other province in India.
c. The proportion of reservation of seats would be according to the population of different communities in the Punjab and Bengal.
d. Muslims should be given 1/3rd (33 %) representation in the Central Legislature.
e. Weightage for Hindu minorities in Muslim majority provinces should be equal to the weightage given to Muslims in the Hindu majority provinces.

According to the decision of the session, the Muslims decided to withdraw from the demand of a separate electorate if the Hindus and the Congress accepted the above mentioned five proposals. The Muslims had already shown the flexibility in the Lucknow Pact and once again they were ready to repeat it. It was perhaps the first chance that the Muslims agreed to accept a joint electorate for themselves. It was also made clear that Hindus would be awarded facilities by the Muslims in Sindh, NWFP and Bengal similar to those given to the Muslims of minority provinces by the Hindus. After three days, the Hindu members of central legislative assembly gathered in Delhi on 23 March 1927.

They presented the following proposals in response to the Delhi Muslim Proposals.

1. The system of joint electorate should be adopted for all legislative /constitutional bodies all over India.
2. Seats should be distributed according to population.
3. The safeguard of religious and semi-religious customs should be arranged through introducing special clauses in the constitution.
4. The separation of Sindh from Bombay should be delayed at this stage.

The Congress proposals were presented with a gap of three days; it showed that there was a visible disagreement between the Muslim League and Congress. Though the Muslim League had sacrificed its biggest demand for a Separate Electorate Congress showed no regard or flexibility. Another sincere effort by Jinnah was discouraged by Congress which increased communal rift between Hindus and Muslims.

THE FOURTEEN POINTS OF JINNAH (1929)

Quaid-e-Azam Muhammad Ali Jinnah was the top leader of the Indian Muslims. He wanted to make the future secure for the Indian Muslims. He tried to unite the Hindus and Muslims as well like Sir Syed Ahmed Khan and Allama Muhammad Iqbal. In the beginning, Sir Syed declared the Muslims and Hindus as two eyes of a bride. However, soon he was able to understand the fact that the Hindus and Muslims cannot live together. Therefore, Sir Syed declared the Muslim as a separate nation and gave the idea of Two Nation theory. After Sir Syed, Allama Iqbal wanted to see the Muslims and Hindus as a single nation. Due to the negative response of Hindus, he presented the ideology of Pakistan. Muhammad Ali Jinnah also wanted to bring the two nations together and he was declared as 'Ambassador of Hindu-Muslim Unity'. Soon Mr. Jinnah separated the ways from Hindus due to their intolerance during the Khilafat Movement.

In response to the Nehru Report presented in 1928, Jinnah presented his famous 14 points; these fourteen points were the demands for the rights of Indian Muslims. These demands were appreciated by the Muslims but rejected by the Indian National Congress and the Hindus. The text of these points is as under.

1. The form of the future constitution should be federal, with the residuary powers vested in the provinces.
2. A uniform measure of autonomy shall be granted to all provinces.
3. All legislatures in the country and other elected bodies shall be constituted on the definite principle of adequate and effective representation of minorities in every province without reducing the majority in any province to a majority or even equality.
4. In the central legislature Musalmans representation shall not be less than one-third.
5. Representation of communal groups shall continue to be by means of separate electorate, as at present, provided it shall be open to any community at any time to abandon its separate electorates in favour of a joint electorate.
6. Any territorial re-distribution that might at any time be necessary shall not in any way affect the Muslim majority in the Punjab, Bengal and the N.W.F. Province.
7. Full religious liberty, i.e., liberty of belief, worship and observance, propaganda, association and education, shall be guaranteed to all communities.
8. No bill or resolution or any part thereof shall be passed in any legislature or any other elected body if three- fourths of the members of any community in that particular body oppose such a bill, resolution, or part thereof on the ground that it would be injurious to the interests of that community or in the alternative, such other method is devised as may be found feasible and practical to deal with such cases.
9. Sindh should be separated from the Bombay presidency.
10. Reforms should be introduced in the N.W.F. Province and Baluchistan on the same footing as in other provinces.

11. Provision should be made in the constitution, giving Muslims an adequate share along with the other Indians in all the services of the state and in local self-governing bodies.
12. The constitution should embody adequate safeguards for the protection of Muslim culture and for the protection and promotion of Muslim education, language, religion, personal laws and Muslim charitable institutions and for their due share in the grants-in-aid given by the state and by local self-governing bodies.
13. No cabinet, either central or provincial without there being a provision of at least one-third Muslim ministers.
14. No change shall be made in the constitution by the central legislature except with the concurrence of the states constituting the Indian federation.

These points of Muhammad Ali Jinnah were the demands for the protection of Muslims' rights. Jinnah demanded one-third seats for the Muslims in centre. His demand for the separation of Sindh from Bombay was fulfilled by the British in the near future. He secured the Muslim majority in the provinces of the Muslim majority. The Congress and the British government came to know that now the Muslims will not go back from the demands of their fundamental rights. The demands of the Muslims and Muslim leaders were in fact for the security of the Muslims' identity in British India.

The Lahore Resolution (1940)

After the Act of 1935 in India, the elections were held in 1937. The Muslim League declared itself as the sole representative party of the Indian Muslims while Congress had the claim that it represented all the Indians including the Muslims as well as Hindus. After the elections of 1937, the Indian National Congress refused to form governments till the removal of the special powers of the governors. It was the fact that AIML could not win the seats in Muslim-majority provinces except the provinces of Bombay and U.P. In these provinces, too, the Muslim League was unable to form the government because its seats were less as compared to the seats of Congress because the Muslim League could not win those seats of the Muslims. In all other provinces such as Bengal, Punjab, Aasam and Sindh, the reputation of AIML was not good.

The Indian National Congress compromised with the British and formed governments by totally ignoring the AIML. They did not co-operate with the Muslims. After the Congress rule it was proved that it was not a matter of cultural or economic discrimination only, the Congress had initiated riots between Hindus and Muslims. These increasing riots alarmed the Indian Muslims. Liaquat Ali Khan during his address in the Assembly of U.P., on 24 February 1939 expressed that it

is the duty of the majority community to create confidence in the minds of the Muslims. He said that the Indian Muslims wish to live in peace.

Sindh Muslim League held a Conference in Karachi in 1938 from 8 to 12 October. The opening address was delivered by Sir Abdullah Haroon. He demanded an independent federation of Muslim states in his speech. It was due to Congress rule and bitter policies of the Congress towards Muslims. In the following year at Meerut, Liaquat Ali Khan on 25 March 1939 said: 'But one thing is clear, if Hindus and Muslims cannot live together, then they should divide the country on the basis of religion and culture'. After a few weeks in Delhi, on 5 May 1939, the Raja of Mahmudabad demanded the partition of India according to the vision of Allama Iqbal presented in the Allahabad Address in 1930. The Raja of Mahmudabad used the name 'Pakistan' for the new state of Muslims. It is an important matter that Raja Sahib used the name 'Pakistan' one year before the Lahore Resolution and in the Lahore Resolution the word 'Pakistan' was not used. It means that many Muslim leaders were in search of a separate identity for the Muslims of South Asia, and it was taking shape gradually.

Chaudhry Rahmat Ali was a Muslim student in London who had in fact introduced the word 'Pakistan' in his pamphlet 'Now or Never' in 1933. However, his proposed scheme of areas for the Muslim state was different from the proposed areas of Iqbal. The scheme of Pakistan of Chaudhry Rahmat Ali was not practicable as he included some areas of Iran and Tukistan located far from India. The Indian areas including Aligarh, Delhi, Hyderabad (Deccan) and Lucknow were the Hindu majority cities and practically could not be part of Muslim state. That was why Mr. Jinnah declared this scheme of Pakistan an 'impossible dream'. Muhammad Ali Jinnah wished to keep the India united and he wanted to protect the political rights of the Indian Muslims within a united India. However, the political situation and the arrogant attitude of Hindu leaders brought him towards the partition.

The historical events show that the Muslims did not present the Lahore Resolution in a hurry. It is a fact that the Lahore Resolution was a well-thought-out and conclusive destination for the Muslim political leaders. The document of the Lahore Resolution bears similarity to Allama Iqbal's demand in his Address of 1930.

The text of the Lahore Resolution had no clarification regarding the single state. It has more bent towards many states. The words 'Sovereign' and 'autonomous' used in the text of the Lahore Resolution symbolize the diverse and mismatched level of independence. The Lahore Resolution was moved by Abul Kassem Fazlul Haq (A.K. Fazlul Haq), and in the Delhi Muslim League Legislators Convention 1946, it would be amended by Huseyn Shaheed Suhrawardy (also a Bengali politician), to read as 'state' instead of 'states'.

It is also important to know the situation and environment under which the Lahore Resolution was presented and passed. The All India Muslim League was not in the government in the Punjab, but the Unionist Party was governing the Punjab and seemingly represented the Muslim League. Sir Sikander Hayat Khan was the Prime Minister of Punjab (then Chief Minister was called Prime Minister in provinces). Sir Sikander Hayat Khan had his own scheme for the partition, in which he had identified seven (7) Muslim regions on the basis of autonomy instead of sovereignty. He was also in favour of altering the Lahore Resolution.

The city of Lahore was not well administrated in such a way as to bear the huge caravan of the public. It was the passion and dedication of the common people who made the arrangements. Meanwhile, the Khaksars demonstrated and as a response, the police attacked them brutally on 19 March 1940. The Muslim League succeeded in taking support of the Khaksars also. Due to the situation of law and order some Muslim leaders suggested postponing the meeting of the Muslim League going to be held at Lahore. It was expressed by Mian Amiruddin Ahmad, Mian Bashir Ahmad, Mian Ferozuddin and Nawab Shahnawaz Mamdot in a meeting held at Minto Park. On the other hand Sir Sikander Hayat wanted to carry on as he was against the postponement of the meeting; therefore, it was determined to go ahead. Mr. Jinnah came to Lahore and reached the Mayo Hospital straight from the railway station. He went to inquire the injured people of Khaksars who were under treatment.

Quaid-i-Azam went up to each of them individually inquiring after their treatment, and this gesture reduced the political temperature of Lahore. The Muslim League Session was held from 21 March to 23 March at Lahore and the resolution for the rights of Indian Muslims was passed; it was titled as ‘Lahore Resolution’. The Hindus criticized it and it was declared as ‘Pakistan Resolution’ by the Hindu press. The Muslims also accepted this name as ‘Pakistan Resolution’. The Lahore Resolution was a step forward towards the separate Muslim identity in South Asia.

The Cabinet Mission Plan and 3rd June Plan

The Indian Muslims have been fighting for their rights for a long time. The Indian National Congress wanted to keep the India as united. On the other hand, the All India Muslim League was looking toward the protection of rights of the Indian Muslims. However, both the parties Congress and League wanted to settle the issues. The elections of 1945-46 were held on the base of a separate electorate. The All India Muslim League won 90 percent of the Muslims’ seats. In this election of 1945-46, the Indian Muslims proved that the All India Muslim League was the sole representative party of the Muslims of British India. After this amazing victory in the elections, Mr. Jinnah was now empowered under the banner of AIML to negotiate with the Congress and the British. Now the British Government tried as a last resort to keep the India united. For this purpose, the

Cabinet Mission Plan was sent to negotiate with the Indian leaders.

The Cabinet Mission Plan came to India in March 1946 and was planned to defend the unity of India. It was the time when the British were trailing their control over India. The British government wanted to leave India but keep it united instead of partitioned. The Cabinet Mission was an outcome of this desire, so it came to India on 24 March 1946. The mission was sent by the British Government comprising the following three members of the British cabinet.

Lord Pethick-Lawrence, Sir Stafford Cripps and A.V. Alexander.

The Cabinet Mission had the following purpose:

1. To start preliminary negotiations with the elected representatives of British India in response to the elections.
2. To set up a body for the preparation of the future constitution.
3. To set up an Executive Council with the consultation and support of the major political parties of India.

The mission was set up in February 1946 by the British Government while it arrived in India on March 24, 1946. The three members were the representatives of the cabinet of Mr Attlee, the British Prime Minister. After a series of negotiations with the Congress and the Muslim League, the Mission put forward some proposals on 16 May 1946.

The key points of the plan were as under:

1. There would be a union of India comprising both British India and the Indian States that would deal with foreign affairs, defense and communications. The union would also have an Executive and a Legislature.
2. All residuary powers would belong to the provinces.
3. All provinces would be divided into three sections. Provinces could opt out of any group after the first general elections.
4. There would also be an interim government having the support of the major political parties.

After putting forward this plan there was no more chance of discussion and the British asked the Indian parties to accept or reject the plan. The All India Muslim League accepted the plan on 6 June 1946. Prior to it, the Indian National Congress had accepted this plan on 24 May 1946; despite this, Congress rejected the interim setup.

It was the responsibility of the Viceroy that he must invite the Muslim League to make the Government because League had accepted the interim setup, but he did not invite the League.

Meanwhile, on 10th July, Jawaharlal Nehru, the Congress leader addressed a press conference; he said that the Congress had decided to join the constituent assembly. He further added that Congress would be free to make changes to the Cabinet Mission Plan.

Keeping in view this situation, the Muslim League disconnected itself from the Plan and adopted the 'Direct Action Day' to attain Pakistan. As a result, the Viceroy Lord Wavell invited the Indian National Congress to join the interim government neglecting the fact that practically Congress had rejected the plan.

On the other hand, Wavell soon realized the uselessness of the scheme because of the absence of the League. However, on 14 October 1946, Lord Wavell extended an invitation to the League as well.

Mr. Jinnah nominated Ismail Ibrahim Chundrigar, Sardar Abdur Rab Nishtar, Ghazanfar Ali Khan, Liaquat Ali Khan, and Jogandra Nath Mandal to the cabinet.

The Ministry of Finance was allocated to the League by the Congress. This was a very difficult task but Liaquat Ali Khan as the finance minister, presented the budget and it was called a 'poor man's budget'. This budget affected the Hindu capitalists adversely. In this setup, there was a deadlock between the League and Congress which further worsened the prospects for cooperation.

On 22 March 1947, Lord Mountbatten arrived as the last Viceroy of British India. He presented a plan on 3 June 1947, which was called the '3rd June Plan'. It was declared that the power would be handed over from the British to Indians within one year by June 1948.

Lord Mountbatten came into a long series of negotiations with the League and Congress leaders. Quaid-i-Azam Muhammad Ali emphasized that his demand for Pakistan had the strong support of all the Indian Muslims. Moreover, Mr. Jinnah said that he could not withdraw from it. Jinnah has taken this decision due to the toxic attitude of Congress and Hindus towards the League and the Indian Muslims. The extremists like Patel also agreed to the Muslims' demand for their separate homeland. Lord Mountbatten now prepared for the partition of the united India and announced it on 3 June 1947. The legislative representatives of the Hindus, Muslims and the Sikh community made the agreement with Lord Mountbatten on 3rd June. The same plan is also called as Mountbatten Plan.

Indian Independence Act of 1947

The British decided to leave India after its partition. The Congress and Muslim League wanted to take freedom from the British but Congress wanted to keep the India united while the Muslim League had decided to create Pakistan through the partition of India. In this situation, the British government passed an act titled as 'Indian Independence Act, of 1947'. According to the Act, the India would be partitioned into two separate states, India and Pakistan, on mid night of 14^{th} and 15^{th} August 1947. The Indian Independence Act was passed by the British Parliament on 5 July while on 18 July 1947, this bill attained royal assent from the then-British monarch, George VI.

In the following lines is copied a small part of the original text of the bill, which is helpful to understand the bill.

Section 1.-(1) As from the fifteenth day of August, nineteen hundred and forty-seven, two independent Dominions shall be set up in India, to be known respectively as India and Pakistan.

Section 2. (2) Subject to the provisions of subsections (3) and (4) of this section, the territories of Pakistan shall be-

(a) the territories which, on the appointed day, are included in the Provinces of East Bengal and West Punjab, as constituted under the two following sections:

(b) the territories which, at the date of the passing of this Act, are included in the Province of Sind and the Chief Commissioner's Province of British Baluchistan; and

(c) if, whether before or after the passing of this Act but before the appointed day, the Governor-General declares that the majority of the valid votes cast in the referendum which, at the date of the passing of this Act, is being or has recently been held in that behalf under his authority in the North West Frontier Province are in favour of representatives of that Province taking part in the Constituent Assembly of Pakistan, the territories which, at the date of the passing of this Act, are included in that Province.

Section 3. -(1) As from the appointed day. (a) the Province of Bengal, as constituted under the Government of India Act, 1935, shall cease to exist; and

(b) there shall be constituted in lieu thereof two new Provinces, to be known respectively as East Bengal and West Bengal.

Section 4. -(1) As from the appointed day- The Punjab.

(a) The Province of the Punjab, as constituted under the Government of India Act, 1935, shall cease to exist ; and

(b) There shall be constituted two new Provinces, to be known respectively as West Punjab and East Punjab.

(2) The boundaries of the said new Provinces shall be such as may be determined, whether before or after the appointed day, by the award of a boundary commission appointed or to be appointed by the Governor-General in that behalf, but until the boundaries are so determined-

(a) The districts specified in the Second Schedule to this Act shall be treated as the territories to be comprised in the new Province of West Punjab; and

(b) The remainder of the territories comprised at the date of the passing of this Act in the Province of the Punjab shall be treated as the territories which are to be comprised in the new Province of East Punjab.

Section 5. For each of the new Dominions, there shall be a Governor General who shall be appointed by His Majesty and shall represent His Majesty for the purposes of the government of the Dominion.

Provided that, unless and until provision to the contrary is made by a law of the Legislature of either of the new Dominions, the same person may be Governor-General of both the new Dominions.

Section 6. -(1) The Legislature of each of the new Dominions shall have full power to make laws for that Dominion, including laws having extra-territorial operation.

Section 8. -(1) In the case of each of the new Dominions, the powers of the Legislature of the Dominion shall, for the purpose of making provision as to the constitution of the Dominion, be exercisable in the first instance by the Constituent Assembly of that Dominion, and references in this Act to the Legislature of the Dominion shall be construed accordingly.

Section 9. (2) The powers conferred by this section on the Governor General shall, in relation to their respective Provinces, be exercisable also by the Governors of the Provinces which, under this Act, are to cease to exist; and those powers shall, for the purposes of the Government of India, Act, 1935, be deemed to be matters as respects which the Governors are, under that Act, to exercise their individual judgment.

Section 20. This Act may be cited as the Indian Independence Act, 1947.

1.4 THE SALIENT FEATURES OF THE IDEOLOGY OF PAKISTAN:

Pakistan is our beloved country which has been established after the untiring efforts of the Muslims of India. The foundation of the Pakistan movement was the Ideology of Pakistan. The ideology of Pakistan was based on the Two Nation theory. The Ideology of Pakistan has the following salient features.

Independent State:

The main purpose behind the ideology of Pakistan was the creation of a separate homeland for the Muslims of South Asia where they could spend their lives freely. The Muslims were like the slaves of the Hindus and British in British India. They wanted to have an independent country for their offspring.

Sovereignty of Almighty Allah:

The main objective of the ideology of Pakistan was the establishment of an Islamic state. The Indian Muslims demanded their separate homeland for themselves to institutionalize and put into practice the Islamic principles. The ideology of Pakistan had in its essence the aim to gain a piece of land where the state would ensure the supremacy of Almighty Allah. Quaid-i-Azam Muhammad Ali Jinnah said that we are not demanding only a piece of land; however, we want a country where we can practice and introduce Islamic principles.

Establishment of Islamic Democracy:

The Indian Muslims wanted to live according to the teachings of Islam. The reason behind this was that Islam has a unique and wonderful perception of democracy which is dissimilar from the Western concept of democracy. According to Islamic democracy, all sovereignty belongs to Almighty Allah rather than the people. All the people who live in the geographical boundaries of the Islamic State would be

treated uniformly in the Islamic State irrespective of their race, colour, caste, language and social status in the society.

Accountability:
The ideology of Pakistan had a strong notion of accountability. Islam has given the concept of reward for performing good deeds while accountability is held on the bad deeds. The Government of an Islamic state is answerable and responsible in front of Allah on the one hand, and on the other hand, accountable to the people on the earth. There may be a lot of examples from the lives of the Khulfa-e-Rashideen regarding this notion of accountability.

Minorities Rights:
The ideology of Islamic democracy guarantees the rights of minorities in Islamic States. Before and after the establishment of Pakistan, Quaid-e-Azam Muhammad Ali Jinnah assured the non-Muslims that their rights would be safeguarded and fulfilled in the newly established state. He asked Sikhs to join Pakistan and offered them the key posts. However, they were demanding a separate state for them.

Social Justice and Equality:
The ideology of Pakistan provides a roadmap towards social justice and equality. This is one of the most important directives of Islam that all the human beings are awarded equal status without any discrimination of language, area, caste, colour, creed and culture. Islam provides equal rights to the slaves also. The founding of the rule of law, social equality and a truthful judiciary system for all communities in the state is intended. The independent courts of law and the supremacy of rule are the fundamental conditions for the establishment of social justice and equality.

Rights and Duties:
The basic concept of the rights of the people was recognized in the Objectives Resolution passed on 12 March 1949. However, the protection of rights was also emphasized in the ideology of Pakistan. During the Pakistan movement, the focus was laid on the rights and duties of the citizens. Quaid-e-Azam focused on the rights of people and duties of citizens during speeches particularly addressing the students. In any Islamic country, the rights and duties are strongly associated and both go hand in hand. The provision of complete security to the minorities was also incorporated into the demand for Pakistan.

Preservation of Islamic Culture:
One of the most important objectives of the ideology of Pakistan was the protection and conservation of Islamic cultural traits from Hindu supremacy. The Muslims had been living in the subcontinent with their unique identity. They never accepted the Hindu cultural supremacy over them. Hindus made a number of efforts to eliminate the Muslim cultural traits. In this regard the Shudhi movement, the Sanghtan movement, Hindi-Urdu controversy were glaring examples of Hindus' narrow-mindedness.

Protection of Muslim Identity:
The protection and security of Muslims' rights and national image from Hindu suppression was one of the causes of establishing a separate country. During the colonial period in India, Hindus were dominant in all walks of life particularly in the politics and business. It was largely due to their modern education. The Muslims were backward in every field which created a huge identity crisis for them. On the opposite side, the Hindus were enjoying their status as the right hand of the British rulers, therefore, they adopted the insulting behavior towards Muslims. They closed all the doors of progress and prosperity for the Muslims.

Balanced Economic System:
Incorporated in the establishment of Pakistan was the aim to set up a balanced as well as unbiased economic system founded on Islamic economic principles of welfare and equality. After the creation of Pakistan, the governments have tried to provide equal economic opportunities and social equality to all citizens. It was acknowledged during the Pakistan movement that Pakistan would be a welfare state and the Government would be responsible for providing basic rights such as education, health, shelter, employment and good quality of life to citizens of Pakistan. Usher, Zakat, and taxes would be collected by the government and should be distributed to the poorest, needy and marginalized sections of the society. The Islamic economic system discourages the concentration of wealth and resources in a few hands. Islam also forbids interest or *riba* (commonly known as *sood*) on wealth and money.

Pakistan is an ideological state and it is a gift from Almighty Allah. The ideology of Pakistan was based on the Two Nation theory which was an outcome of the awareness of the Indian Muslims. This realization and consciousness which developed in the minds of Muslims of South Asia that they are a distinctive nation, is the kernel of the Islamic Ideology. The Islamic Ideology has its own distinct principles and attitudes toward life. These Islamic principles cover cultural, political, economic, and all other aspects of the life of human beings. These golden principles of Islam had been in practice for many hundred years among the Muslims of South Asia. Finally, the ideology of Pakistan supplied the foundation for the Two Nation theory. In the viewpoint of India, the two nation theory indicates that two main nations, the Hindus and the Muslims have been living in united India. However, both nations were completely dissimilar from each other. They had their separate worldviews, thinking, habits and ways of worship. This wish to protect the identity of Indian Muslims developed the base of two nation theory. The same theory provided us with the ideology of Pakistan. Therefore, the Muslims of India took part in the freedom movement with enthusiasm. Ideology of Pakistan remained the driving force behind the movement for their freedom. The creation of Pakistan was obviously the logical result of the ideology of Pakistan. It is another matter that after the establishment of Pakistan the country remained in the hands of corrupt political leaders who did not take the responsibility of the welfare of the citizens.

Self-Assessment Questions:

1. Define the term Ideology and elaborate on the importance of the Ideology.
2. What is the ideology of Pakistan? How is it connected with the Two Nation theory?
3. Discuss the evolution and development of the Muslim community in South Asia.
4. Elaborate the evolution of Muslim identity in the subcontinent from 712-1857 A.D.
5. How Hindi-Urdu controversy was the basis for the identity of Muslims in British India?
6. How Simla Deputation prove an achievement with respect to a separate identity for the Muslims of South Asia?
7. Highlight the historical perspective and aims of the establishment of the All India Muslim League (AIML).
8. Discuss the salient features of the Indian Councils Act 1909 (Minto-Morley Reforms).
9. Discuss the importance of the Lucknow Pact (1916) and its impact on Indian politics.
10. Highlight the importance of Delhi Muslim Proposals regarding the protection of rights of the Indian Muslims.
11. Discuss the background and importance of the Fourteen Points of Quaid-e-Azam Muhammad Ali Jinnah.
12. Discuss the importance of the Lahore Resolution for the Muslims in the politics of India.
13. Highlight the importance of the Cabinet Mission Plan and the 3rd June Plan in the politics of South Asia.
14. Discuss the Salient Features of the Ideology of Pakistan.

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Unit- 02

POLITICAL AND CONSTITUTIONAL DEVELOPMENT IN BRITISH INDIA AND MUSLIMS' RESPONSE

Written By:
Dr. Khalid Mahmood

Reviewed By:
Prof. Dr. Anwar Shaheen

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INTRODUCTION

The East India Company was a British trading company that had shown the desire to set up a trade centre in Bengal in the year 1609 when Mughal emperor Jahangir was the ruler; however, he rejected the proposal at that time. But in 1613, after four years he accepted it and the East India Company succeeded in setting up a trade centre at the place of Surat in Bengal.

The British had successfully taken the control of major parts of India after the death of Tipu Sultan. The first British success against the local rulers was in the War of Plassy (1757) and after that, the British occupied other areas of India one by one till the War of Independence (1857). The British tried to undermine the Muslims' control of all fields of life.

After the war of Plassy, the British carried on expanding their rule and with the passage of time, dissatisfaction among the common people of South Asia spread. There were a number of reasons for their displeasure and as a result, an all-out rebellion erupted in 1857 in India. The main reason was that the administration of the British was not suitable for the local citizens and the troops.

After the War of Independence (1857), the Indian Muslims were oppressed due to British policies towards Muslims. In this situation, the Muslim Leaders of the South Asia responded in the fields of education and politics. Sir Syed Ahmed Khan started his efforts through the Aligarh Movement. After a few years, the other Muslim leaders also came to the front. If we categorize these movements, the Aligarh movement of Sir Syed Ahmed Khan was the modernist, Darul Uloom Deoband was traditionalist while Darul Uloom Nadwatul Ulema and Jamia Millia Islamia, Anjuman-e-Himayat-e-Islam, Sindh Madressatul Islam and Islamia College Peshawar were the reformist educational movements. The political response of the Indian Muslims as analyzed by the scholars, was according to the situation as they oscillated from opposition to cooperation and then from cooperation to agitation.

OBJECTIVES

After reading this chapter you will be able:

1. to develop an understanding of the rise of British power and its implications for the Muslims;
2. to learn about the militant response from India in the form of various battles;
3. to know about the historical perspective of the War of Independence 1857;
4. to learn about the Muslim's educational response—modernist, reformist, and traditionalist;
5. to learn about the Muslim's political response—opposition, cooperation and agitation.

2.1 THE RISE OF BRITISH POWER AND ITS IMPLICATIONS FOR THE MUSLIMS:

The rise of power of the British was not a sudden incident in the Indo-Pakistan subcontinent. The British East India Company settled in India with the proper legal permission of the Mughals who were ruling India at that time. The main objective of the East India Company was to initiate trading. The opening group of the British traders reached here as the ambassador of the East India Company. The traders had to compete with other Europeans who were there in this region, especially the French. In 1613, Captain Hawkins and his friends succeeded in getting formal permission. The Mughal Emperor Jahangir permitted them to initiate their trading. They started trading along with paying taxes to the Mughal emperor. They kept on trading on a regular basis but due to the weaknesses of Muslim rulers the British ultimately were able to set up their rule here. The East India Company governed India until 1857 and after the failure of the War of Independence, India came under the direct rule of the British Crown.

Rise of British Power in India:

The East India Company was established on 31 December 1600 A.D (with its Head office in London) after receiving the Royal Charter from the Queen Elizabeth. In its origin, it was chartered as the 'Governor and Company of London trading into the East Indies'. The Company had neither aimed to build an empire in India nor it was interested in occupying the subcontinent but it focused on the trading of commodities like silk, cotton, tea, saltpeter, salt and opium, etc. The government had no share or direct control but the wealthy merchants and noblemen were the shareholders of the company. It was established due to the industrial revolution in England. The British had to sell their products and they were in search of markets where they could sell their industrial products.

East India Company expressed the wish to establish a trade center in Bengal in the year 1609 when Mughal emperor Jahangir was the ruler but Jahangir did not accept it at that time. However, in 1613, after four years he accepted it and the East India Company was allowed to establish a trade centre at Surat in Bengal. The company entered India and it constructed a fort for the establishment of their trade centres. Jahangir was not easily convinced and had some doubts and observations. Therefore, the emperor banned the company for a few years but was again allowed to continue the trade activities.

The Company increased its military interest, influence and activities in India day by day. In 1627, Jahangir died and his son Shah Jahan succeeded to the throne as he was the most competent of the four sons of Jahangir. In the year 1639, at Madras, another trading centre was established by the Company. At the same time, one of the daughters of Shah Jahan fell seriously ill and the local doctors declared

her incurable. However, an English doctor came to see her; after his treatment, she sustained and regained her health. Shah Jahan, the emperor of that time, was astonished as well as happy. The emperor presented a lot of gifts to the doctor but the doctor requested that the company should be granted more trading rights; the request was accepted by Shah Jahan. The acts were neglected by the Mughals and the company was increasingly showing her interest in military establishments and had established Calcutta city in 1690.

In the eighteenth century, the British East India Company was competing with its counterpart the 'French Company of the East Indies' (founded in 1664 with its headquarters in Paris). However, on the other hand, the Mughal Empire was fast crumbling and its decline was obvious. Meanwhile, the Indian Empire seemed highly attractive to the British East India Company. Besides this, the traders who continued trading with the French company (FCEI) were soon connected directly with the French factories and at last in the year 1769, the French Company of East Indies was formally abolished. So the British East India Company established her monopoly as it was then the single trading company in the subcontinent.

Mirza Muhammad Siraj ud-Daulah, more commonly known as Nawab Siraj ud-Daulah was the son of Zainuddin Ahmed Khan and Amina Begum. He was born in 1733 and after a short time, his maternal grandfather was appointed as deputy governor of the Bihar Province. Therefore, Siraj was called a fortune child in his family. It is said that his grandfather Alivardi Khan loved him so that right from the day of his birth, he never kept his grandson separate from himself. In 1752, Siraj, at the age of 19, was nominated the successor by his grandfather, Alivardi Khan. Alivardi Khan died in April 1756. His grandson Siraj sat on the throne and became the Nawab of Bengal after the death of his grandfather. He was only 23 years old at that time.

After becoming Nawab, Siraj ordered the British as well as the French not to spread their influence in Bengal as they had been making encroachments to build their fortifications without his permission. The aim of this order was to stop the extension of colonial influence in Bengal. The British refused to accept his order. Nawab took some actions against the British and its logical end was the Battle of Plassy. The British made a conspiracy against Nawab of Bengal (Siraj) and they engaged Mir Jaffar in this context; Mir Jaffar was the effective commander of Siraj's army.

The battle was fought on the ground of Plassey between the British and the Nawab of Bengal on 23rd June 1757. It was not the first war of Muslims with the British of course, but the most important war of Anglo-Muslims. Nawab of Bengal lost the war because of the sudden fall of his commander Mir Mardan. Siraj took advice from Mir Jaffar in this regard, but Mir Jaffar already had handed his loyalty over to the British. Mir Jaffar and his army remained passive at the time of the battle, as they had made an agreement with the British. Mir Jaffar recommended Siraj to retreat for that day. The war was stopped by both sides but suddenly Robert

Clive attacked when the soldiers of Siraj were going back to the campus. The result was that Nawab of Bengal fled the battlefield on a camel due to the treason of Mir Jaffar. But he was soon arrested by the staff of Mr. Jaffar.

The British succeeded in defeating Sira-ud-Daulah with the help of Mir Jaffar at the Battle of Plassey in 1757. Mir Meerun, the son of Mir Jaffar ordered Siraj's execution as Mir Jaffar had agreed in a contract with the British. Siraj-ud-Daulah was executed by Mohammad Ali Beg on the second day of July 1757. He was buried at Khushbagh, an area of Murshidabad. The end of Siraj's life was the start of the victories of the British East India Company in the subcontinent. The new Nawab of Bengal was Mir Jaffar, appointed by the British as they rewarded him for his treachery with the Muslims. It was considered the first political victory of the Company and henceforth, the East India Company started its rule in one of the largest provinces of the subcontinent.

The British East India Company had won some other wars before the battle of Plassy. Among them, their first success was the Battle of Swally against the Portuguese in the last week of November 1612. This was the start of the fall of Portugal's commercial monopoly over India. In 1751, British East India Company in the combat leadership of Robert Clive won another war commonly known as the Siege of Arcot. The Battle of Golden Rock was also a success for the British East India Company against French troops assisted by Hyder Ali of Mysore.

This was the first remarkable victory of the British against Indian Muslim rulers. The successful end of the war for the British was the beginning of a series of wars between the imperialist power and the locals. British occupied other states of India one by one and they succeeded in defeating the Indians' War of Independence one hundred years after the Battle of Plassy.

2.2 MILITANT RESPONSE FROM INDIA: FROM BATTLE OF PLASSY (1757) TO WAR OF INDEPENDENCE (1857)

After the battle of Plassy (1757) and battle of Buxar, in the province of Bihar (1764) under the leadership of Robert Clive, the British had a great power to control the Indian sub-continent. British had keen interests in the Bengal due to its commercial viability as the British gained 60 percent of Asian imports from Bengal. After the battle of Buxar, the British won the political and revenue collection powers in Bengal and Bihar as well as in Orissa.

The second Anglo-Mysore war started in 1780 and ended in 1784. Hyder Ali died in 1782 due to cancer. After the death of Hyder Ali, his eldest son Fateh Ali Sahab Tipu (famous as Tipu Sultan: 'Tiger of Mysore') carried on the battle against the British. On 11 March 1784, the war ended and the Treaty of Mangalore was signed. According to the agreement, both groups agreed to the point of restoring the status quo ante bellum. This peace treaty is considered a very important document in the history of the subcontinent as it was the last occasion when the Company accepted the terms as dictated by an Indian power.

The third war of Mysore was fought between 1790 A.D. and 1792 A.D. between the British and Tipu Sultan. At the end of the war, an agreement was signed on 18 March 1792; this peace agreement in the history is called as Treaty of Srirangapatinam (also called Seringapatam). Tipu provided half of his kingdom to the British Marathas and the Nizam of Hyderabad. The fourth and decisive battle was fought between the British and Tipu Sultan. Tipu fought bravely in the battle and as a result, he lost his life during the war on 4 May; his young heir, Fateh Ali and other family members were arrested and sent in exile to Calcutta. British got indirect control of Mysore.

The East India Company had a private army of about 2, 60,000 by 1803 and which was two times of the British army of that time; the company had planned to gain administrative control of the vast areas of Indian subcontinent through the private armies; the E.I.C. kept her control around a century from 1757 to 1857 in this way. The third battle of Delhi was fought in the year 1803, between the British East India Company and the Marathas and the result was the victory of the Company. Delhi remained under the control of the Company till the War of Independence and after the War of 1857, it came under the direct control of the British. Sindh was conquered by Sir Charles James Napier (General) and fell under the control of the East India Company in the year 1843. Ranjit Singh died in 1839; after his death, the Punjab Empire commenced to fall. His son Maharaja Sher Singh was killed in the month of September 1843 by his cousin Ajit Singh Sindhanwalia who was an army officer.

During the Mughal period, the Sikhs had been ruling in Punjab. When the Company came to occupy Punjab, the Battle was fought between the Sikhs and East India Company at Chillianwala in Gujrat (Pakistani Gujrat now). The company defeated Sikhs' armed forces decisively on 21 February 1849. Punjab was included in British India on the second day of April in the same year. The states of Berar and Oudh were conquered by the British forces in 1854 and 1856 respectively.

Historically, the rule of the British can be divided into three stages. In the first, The British came to India for the sake of trading with the permission of the Mughals and other local rulers of that time. This first period spread from 1612 to 1757; in this period the British East India Company established its trading posts in different locations but especially near coastal areas of India. These trading posts are also called factories. At the end of this period, by the mid-18th century, the British East India Company had established three Presidency towns in India including Madras, Bombay, and Calcutta.

The second period was called the golden period of the company which spanned over one hundred years from 1757 to 1857. During this period, the company came into power; it was able to snatch various princely states from the local rulers. Within a few years, a wide area of the subcontinent came under the rule of the East India Company gradually. During this phase (second period), the Presidency Towns were

called Presidencies of British India. However, the company was unable to maintain its real mercantile status and sovereignty till the end of the period.

The third period started in 1857 when the War of Independence was fought. As a result of the War, the East India Company lost its status. Consequently, India came under the British Crown. The sovereignty of the British was extended to many other areas of the Indian subcontinent and the Presidencies were divided into provinces. The period ended in 1947 with the transfer of power to the Indians.

Causes of Revolt:

Some causes of revolt for the War of Independence (1857) were as under:

Dissatisfaction of the Indian masses:

The Indians were not satisfied with the British government policies. There were a lot of reasons for their dissatisfaction and as a result, the incident of the revolt happened in 1857 in India. The British had succeeded in controlling major parts of India after the death of Tipu Sultan. Besides this, they tried to destroy every prospect for Muslims in all walks of life. They concentrated on two things; first, the extension of their territories and second, suppressing the Muslims. The Mughals had been squeezed and the Indians were exploited by the company. As a result, Muslims who have been largely ruling India; now were converted into a helpless minority.

Political cause:

There can be seen a variety of reasons or causes of the Revolt of 1857. The policies of Lord Dalhousie were against the local rulers and he extended his territories. He introduced the 'Doctrine of Lapse' in 1852. This was the British policy through which Dalhousie abolished the rule of successor in case of unavailability of a real son of a ruler in India. In the year 1847, the Raja of Satara, Partap Singh Bhosle died. He had an adopted son instead of a real but in his life, Dalhousie rejected the succession of an adopted son as a ruler. The ruler of Awadh always remained loyal to the British but his state was also occupied by the British. The British implemented higher taxes on the lands and the landholders had to pay them. Eighty Thousands of military servants from Awadh were terminated by the British and they became unemployed in the wake of this action. Due to such atrocities and charges against farmers, the soldiers of the Company had extreme anger against the Company and the British because their families had their lands in Awadh. Moreover, the government had issued an order that the Mughal successor would have to leave their royal palace forever. Then there came a glare intervention in the Hindu religion when Lord Dalhousie approved the bill allowing the second marriage of Hindu widows in 1856. This was totally unacceptable for the Hindus.

Religious cause:

The British were highly supportive of Christianity and this was an alarming situation not only for the Muslims and the Hindus but for the other natives also. The Christian missionaries came to India with the British officers for their spiritual training but they started interruption in the religious matters of the Indians. The natives felt threatened that their young generation would be destroyed by the Christians because the missionaries were performing their activities in the educational institutions. The missionaries were preaching their teachings not only in the churches and schools but in prisons, hospitals and working places also. This was a matter of concern for all the Indian people. Sindh was conquered by General Charles James Napier in 1843. During the conquest of Sindh, the Indian Muslim sepoys were enraged as they had to attack their Muslim brothers of Sindh.

Military Cause:

There were also military causes of the mutiny of 1857. The British followed a variety of discriminatory rules in the army as the Indian soldiers got very less pay than non-Indians. The highest or maximum remuneration obtained by a senior foot soldier was less than the lowest pay of a European yard bird. There were rare chances of self-regard and promotion for the Indian soldiers as they were not trusted by the British. In other words, all the higher posts were reserved for the Europeans. Indian soldiers were awarded higher punishment and serious insult in response to their minor disciplinary violations in the army but, there was a rare or minimal punishment for a European, even in case of a higher disciplinary violation. This attitude promoted abhorrence in the hearts of Indian paradars (infantrymen) against the foreign officers. In the military units, even sometimes the sepoys were forced to convert to Christianity.

The government introduced a new type of Enfield rifle which was very effective during the battles. The soldiers had to nibble or open the greased cartridge of the rifle with their teeth before loading it into the gun to fire; some grease was certain to stick the teeth and tongue. This grease was made out of the fat of cows and pigs. This was against the religious dogma of the Hindus and Muslim soldiers as well. In April 1857, the sepoys disobeyed the order of their commanding officer, Colonel Symth; who asked them to use the cartridge on 3rd April. Some of them including the Muslims and Hindus were court martialed after an official inquiry.

There was also a prediction among the Indians that the rule of the company would be at the end after 100 Years, as the company settled itself in 1857 after the war of Plassey.

Events of War:

The first order to use the greased cartridges occurred in March 1857 at Dum

Dum and Barrack-pur near Calcutta. The sepoys were suspended by their British officers; the suspended sepoys were furious but it was considered that the situation had been controlled. On the other hand, 85 sepoys of Meerut Cantonment were put into prison because they refused to use these cartridges. The sepoys of other areas also rebelled against the punishment of their Indian sepoys; they started killing their British officers. The British officers and soldiers from Ambala and Meerut recruited fresh troops including Sikh sepoys to crush the mutiny.

The mutiny was spread in Delhi among the freedom fighters against the British army. The British were another heinous move. The arrested members of the royal family; Hudson, the commander of the British army fired on two sons and one grandson of Bahadur Shah Zafar and then chopped off their heads from their bodies. These heads were shown to the Muslim emperor on the throne at that time, Bahadur Shah Zafar who had already been arrested by the British. In the state of Jhansi, Lakshmi Bai, the Rani of Jhansi fought bravely but was killed at last. Hindus and Muslims fought against the British while the Sikhs remained loyal and faithful to the British during the war. Those sepoys were suspended or sentenced to death who participated in this rebellion.

Reasons for failure:

The Indian sepoys fought bravely and with enthusiasm in the War of Independence against their masters; the British, but they failed to overthrow the British Raj. There were a number of reasons behind their failure; some of them are discussed in the following.

1. The war of independence started due to some immediate reasons and without proper planning. The sudden start of the war was itself confusing as a large number of sepoys were not prepared for this action.
2. There was a lack of communication, the freedom fighters were spread all over India and they had no proper connection among them. They were unable to know the situation of each other at the right time. The English troops were fully equipped with the communication tools at that time.
3. The war was fought within different periods of time in different places. The freedom fighters fought and were crushed by the British armed forces as the sepoys were not united.
4. The sepoys fought with patriotic spirit but they neither had more arms nor modern rifles as compared to the British. The English troops were fully prepared as they had modern arms, great generals and various types of cavalries.
5. The mutiny was started by the soldiers and there was no genuine leader or commander to guide them. The war was not an easy task. The soldiers used to declare someone as their leader on the base of their hopefulness and faith; however, they had neglected strategic facts and ground realities. They chose Bahadur Shah Zafar as their leader who was merely a nominal emperor of their kingdom. Zafar was helpless and resource poor, also physically unable

to fight; he could not offer them arms and ammunition but his poetic ideas. They forgot the reality for some time that no one could win the war merely on the basis of poetic ideas and patriotism.

6. The Indian soldiers were in the worst economic conditions. Bahadur Shah Zafar, the emperor of the Indians, was himself at the mercy of the British and depended on their stipend. He looked for a loan from the landlords but they wanted to save money instead of freedom. On the other hand, the British had control over the economy and India was under their control.

Consequences of War of Independence:

The Indian Muslims had tried their best to push out their enemies, the British; and expressed their wish to restore the position of the Mughals as their rulers but badly failed in such aims. The war was fought by the Hindus and Muslims against the imperialism but after the war, the Muslims were greatly considered as being responsible for the war. Socio-political and socio-economic life of the Muslims suffered as a result of this notion.

a. The British were very angry; they took revenge not only on the freedom fighters but on the Indian Muslims; thousands of innocent Muslims were slaughtered by the British.
b. The English writers also expressed in their writings that the retributions and penalties were for the Muslims who became sufferers on every occasion.
c. Those Muslims who played their role as leaders anywhere during the movement were the main target of revenge after the war, as they were a sign of danger for the British.
d. Without any justification for their involvement in the movement, countless natives were executed by the British, especially in Agra, Allahabad, Barely, Delhi, Kanpur, Lucknow and Meerut, and many other places.
e. Particularly, the Muslims were disgraced and their educational, cultural and religious institutions were destroyed soon.
f. They were disqualified from the public sector jobs and were exploited. Their ownerships were eliminated from the properties and lands.
g. W. W. Hunter in his famous book “The Indian Musalmans”, described the real situation of Indian Muslims in these words. ‘The British Government taxes the Muhammadans, and applies the taxes to the erection of Christian Churches, and the maintenance of a Christian Clergy. It has substituted Englishmen for the Muhammadan governors whom they found in charge of the Districts and Provinces. It has formally abolished the Musalmans Judges and Law Officers.152 It allows pork and wine to be openly sold in the marketplace . It has introduced English into the Courts. It has superseded the whole Muhammadan procedure and criminal law’.

2.3 MUSLIM'S EDUCATIONAL RESPONSE: MODERNIST, TRADITIONALIST, AND REFORMIST

After the War of Independence (1857), the Indian Muslims were oppressed due to British policies towards Muslims. In this situation, the only sensible and devoted leader was Sir Syed Ahmed Khan who started his efforts through the Aligarh Movement to educate the Muslims. In a few years, the other Muslim leaders also came to the front with their own scheme of things to ameliorate the problems and uphold the Muslim community. If we classify these movements, the Aligarh Movement of Sir Syed Ahmed Khan was the modernist, Darul Uloom Deoband of Maulana Qasim Nanotvi was traditionalist, while Darul Uloom Nadwatul Ulema and Jamia Millia Islamia, Anjuman-e-Himayat-e-Islam, Sindh Madressatul Islam and Islamia College Peshawar were the reformist educational movements.

ALIGARH MOVEMENT (Modernist Movement)

Background:

After the War of Independence in 1857, the Indian Muslims had to pass through an extremely difficult experience. This was the period of degeneration and decomposition but the roots of this breakdown can be seen in the earlier period. In fact, the fall of Indian Muslims happened with the collapse of the Mughal Empire. In this context, the Europeans succeeded in getting control of India. First, the British East India Company achieved economic control and finally, the British controlled most areas of the Indian subcontinent. The first British ship led by Captain Hawkins landed on the western beach of India in 1608; at that time this area was called Surat.

Domination of East India Company:

We will discuss in the next unit in detail, how the East India Company came to India and made its dominance over other companies. Its main objective was to initiate trading. The British East India Company came here with the legal permission of the Mughal rulers. The opening group of the British traders reached here as the ambassador of the East India Company. The traders had to compete with other Europeans who were there in this region, especially the French. In 1613, Captain Hawkins and his friends succeeded in getting formal permission. The Mughal Emperor Jahangir permitted them to initiate their trading. They started trading along with paying taxes to the Mughal emperor. They kept on trading on a regular basis but due to the weaknesses of Muslim rulers the British ultimately were able to set up their rule here. The East India Company governed India until 1857 and after the failure of the War of Independence, India came under the direct rule of the British Crown.

In the War of Independence in 1857, the Muslims and Hindus were defeated

by the British. Although, the war was fought by the Hindus and Muslims together the Muslims were considered as sole responsible for the mutiny. The Hindus came under the umbrella of the British Government and the Muslims were declared guilty of the rebellion. After the War, the Mughal rule came to an end. Now, the Muslims found themselves downward and their decline reached the lowest ebb. Of course, these days were of desperation and darkness for Muslims. Sir Syed Ahmed Khan wanted to improve the socio-economic condition of Indian Muslims. He came at that time when the Muslims were in critical condition. He decided to serve the Muslims and provide them the right direction. Sir Syed Ahmed Khan used a realistic approach. He analysed the veracity of that time and recommended that Muslims be loyal to the British. He also advised them to devote themselves to the achievement of modern education.

Policies of the British:

The strategies of the East India Company were unfair and biased towards the Muslims. However, this discriminating attitude was also continued by the British Crown after replacing the East India Company. Actually, there arose enmity between the British and the Muslims, as the British thought that the Muslims were guilty of the rebellion against the British colonial authority in 1857. After this 'War of Independence' as the Indians had named it, the British implemented a deliberate policy of discrimination towards the Indian Muslims. The Muslims were crushed through a mutual understanding between the Hindus and the British. The Muslims were removed from their government services, deprived of education and humiliated in society. No one was there for the guidance of Muslims except Sir Syed Ahmed Khan. Sir Syed took responsibility for the welfare of the Muslims in this high time of tribulation.

Sir Syed Ahmed Khan:

Sir Syed Ahmed Khan was born on October 17, 1817 at Delhi. He belonged to a noble Syed family who had served for the Mughals and for the East India Company. He was one of the well-educated Muslims of his time. He had joined the East India Company before the War of Independence and was well aware of the Company and its policies. He also had a better understanding of the issues faced by the Indian Muslims.

Sir Syed Ahmed Khan served the Muslims in various ways and he chose the place of Aligarh as a centre of his activities. Therefore, his services to Muslims are known as the Aligarh Movement. In fact, Aligarh was a town from where Sir Syed started his efforts to change the circumstances of the Indian Muslims. Sir Syed Ahmed Khan had a fundamental argument that the Muslims should think about the reality of the present time instead of lamenting about their past glory. They should also accept the altered situation and circumstances. The reality of the time was that the Muslims had been converted from a commanding to a dependent position.

Focusing the Education:

Sir Syed Ahmed Khan had an opinion that the Muslims should get modern education; he focussed on scientific education. English was a basic prerequisite for this purpose. He thought that the Muslims must learn the English language to acquire the modern awareness. Sir Syed went out to visit various educational institutions in England and wanted to implement the English system of education in India. This was hard work in practice but he tried his best to make it possible. For the achievement of this objective, he took several steps and continued his services till the last day of his life. Some prominent services of this great Muslim reformer are being discussed here.

Role of A Bridge:

Sir Syed Ahmed Khan played the role of Bridge between the Hindus and the Muslims. Both nations were against each other. The Muslims considered that the British had confiscated their rule from the Mughals. On the other hand, the British were convinced that the Muslims would try to take up arms any time against the British as they had snatched the power from Muslims. Sir Syed tried to remove the abhorrence from both sides. As Sir Syed Ahmed Khan belonged to a Syed family, the Muslims looked upon him with reverence. He had been serving in the East India Company and had saved the lives of many British officers during the havoc of the War of Independence. Therefore, the British used to take him as a friend. It is said that he had played a role in bridging the gap between the two nations to bring them closer to each other. He also tried to bring Hindus and Muslims on one platform but failed. He expressed his thoughts that both nations are just like the two eyes of a bride. However, due to Hindus' biased attitude he later declared that the Indian Muslims are a distinct nation separate from Hindus.

Risala-i-Asbab-i-Baghawat-i-Hind:

After one year of the War of Independence, he made his first effort and wrote a book entitled *Risala-i-Asbab-i-Baghawat-i-Hind* (The Causes of the Indian Revolt). Its objective was to promote an understanding between the British and the Muslims. It was published in 1858 and was distributed among the members of the British Parliament. He presented the factual analysis of the rebellion and assured the British that the Muslims were not the sole responsible for the mutiny. The Hindus were also equally responsible for this war. He identified a number of reasons and explained that the British tried to convert the Muslims towards Christianity; therefore, the Muslims got annoyed with them.

He was also of the opinion that several laws were implemented which were neither suitable nor acceptable for the Muslims. Moreover, there was a gap between the rulers and the ruled as the British were not familiar with the culture of Muslims.

Loyal Muhammadans of India:

Sir Syed Ahmed Khan was a Muslim scholar and he wrote a number of books. The purpose of his writing was to remove the distrust between and the British and the Indian Muslims. He also tried to clarify that the Muslims of India may trust the British if they remove the biases against Muslims. The British had introduced the term Muhammadan for the Muslims; Sir Syed Ahmed Khan, in his book '*Loyal Muhammadans of India*' had also used the same term. This was the series of books published by Sir Syed Ahmed Khan. Through it, Sir Syed was able to identify the services of the Muslims made to help the British save them during the revolt of 1857. Sir Syed also highlighted his views about the War of 1857 and claimed that it was a revolt, not the jihad.

A Commentary on the Bible:

Sir Syed Ahmed Khan also performed many services in the form of publications. He produced various publications to overcome the differences or clashes between the Islam and Christianity. He presented an argument that most of the beliefs and habits of the Muslims and Christians are the same. Sir Syed struggled to recognize the commonalities between Muslims and Christians. He explained that both religions are different in their social system but also have certain definitely similar things. His contemporary Ulema of Islam became offensive towards him due to such ideas. Even some of them declared that Sir Syed was 'an agent of the British; therefore, was out of the fold of Islam. However, Sir Syed continued his mission calmly. In spite of this critical situation, some Muslim scholars appreciated the efforts of Sir Syed. As Maulana Altaf Hussain Hali said:

Ye Bhala baat kis ki maanay hain
Bhai Syed to kuch deewanay hain

Tehqiq-i-Lafz-i-Nasara:

One of the publications of Sir Syed Ahmed Khan was *Tehqiq-i-Lafz-i-Nasara.* At that time the word *Nasara* was used for Christians. But Sir Syed argued that the word Nasara is used for Christians in the positive meanings. It never meant that the Muslims were viewing Christians in a strange negative way. This book by Sir Syed was an effective attempt to eliminate the confusion that developed between the Christians and the Muslims. As the British had been making their efforts for the expansion of Christianity; the Muslims took it as offensive for their religion and turned against them. However, Sir Syed worked hard to bring the British closer to the Muslims.

Ahkam-e-Ta'am-e-Ahl-e-Kitab:

Sir Syed Ahmed Khan also wrote a book entitled '*Ahkam-e-Ta'am-e-Ahl-e-Kitab'*. This was published in 1868. In this book, he explained that the Christians

are called *Ahl-e-Kitab* (people of the book), and the Muslims are allowed to eat with them. He wrote that the Muslims can eat the food cooked by Christians sitting with them as well as in exclusive sessions with them. He copied various verses from the Holy Quran and the Hadith of the Holy Prophet (PBUH) of Islam and proved that Muslims were not prohibited from eating with *Ahl-e-Kitab*. He said that the Holy Prophet used to eat the food prepared by the Jews. The food items those are lardeclared as *Hala*l by Allah cannot be termed as *Haram*. In this regard, he also referred to the *fatwas* of Shah Abdul Aziz in which he permitted Muslims to eat with the *Ahl-e-Kitab*.

Scientific Society:

He wished to deliver the latest knowledge to the Muslims. For this purpose, he founded an institution in Ghazipur named Scientific Society. The Society performed its functions well in holding meetings from time to time and provided opportunities to well-educated people for discussions. The highly qualified people came here to discuss various issues. The Scientific Society of Sir Syed Ahmed Khan also arranged the translation of articles from English to Urdu. These articles proved very useful for those who did not know English. The Muslims were very few in number who were able to read English; therefore, this work of conversion from English to Urdu became double beneficial as it promoted the western knowledge into Urdu also. That is why, the Scientific Society of the Aligarh Movement is considered valuable for the development of Urdu after the services of Fort William College of Calcutta.

Aligarh Institute Gazette:

The *Aligarh Institute Gazette* was a part of the services of the Aligarh Movement and Sir Syed Ahmed Khan. This Gazette was started in 1866 and it was published in Urdu and English languages. It was a collection of articles written by Sir Syed Ahmed Khan and his contemporary scholars. The *Aligarh Institute Gazette* played a remarkable role in delivering advanced knowledge and new ideas to the Muslims of the subcontinent.

Khutbat-e-Ahmdia and Tehzib-ul-Akhlaq:

In 1869, Sir Syed went to England with his son Syed Mahmood and stayed there for 17 months. He studies the famous book '*Life of Muhammad*' written by Sir William Muir. In its response, Sir Syed Ahmed Khan wrote his articles which were published as *Khutbat-e-Ahmdia*. He returned to India at the end of 1870 and focussed on the development of Muslims in the field of education. Commencing a sequence of activities to reform the Muslims, he issued a journal entitled '*Tehzib-ul-Akhlaq'*. Sir Syed Ahmed Khan tried to develop the ethics of Muslims through his writings. Sir Syed carried on its publication in Urdu and it continued for a long time. This publication focussed on the social and cultural concerns faced by the

Indian Muslims. It helped the Muslims to improve their ethical situation and soon the same periodical became popular among the people. He comprehensively denounced the social evils rampant among the Muslims, like polygamy, slavery, and other such practices.

Modern and Islamic Education:

In 1872, Sir Syed founded the Muhammadan College Fund Committee. He decided to set up a Muslim school system to deliver both Islamic teachings and modern education. The Muslims were so far avoiding the Western and English education as it was introduced in India by the British. The Indian Muslims were biased towards the British due to religion and they were afraid that modern education would divest them from genuine Islam. The Muslim students were not interested in getting admission into the universities set up by the British. Therefore, their number in higher educational institutions was too small. Due to this, Sir Syed Ahmed Khan had the wish to establish such an institution where the Muslims would be awarded scientific and Islamic subjects in harmony and modern vision.

Muhammadan Anglo-Oriental College was founded on October 24, 1875. Initially, it was a primary school but Sir Syed had the intention of taking it to a college-level institution. After passing the period of two years on January 8, 1877, the M.A.O. College was inaugurated by Viceroy Lord Lytton. The English and Islamic education was declared compulsory for the students. At the time of the death of Sir Syed in 1898, the number of students was almost 350 and out of them 250 had been living in the college hostel.

Muslim University Aligarh:

As time passed, the M.A.O. College got elevated and became a superior institute of education for the Muslims. This was the sole college of Muslims at that time that was running with the financial support of the Muslims and the British. Sir Syed Ahmed Khan had the desire to convert it into a Muslim University. This dream of Sir Syed could not fulfill during his lifetime. However, his colleagues carried on their efforts and the same college transformed into the first Muslim University of Aligarh in 1920. Sir Syed Ahmed Kahn died on March 27, 1898, at the age of 81. He had devoted his life to the services of Muslims in an untiring manner.

Some friends of Sir Syed Ahmed Khan also helped him sincerely. Maulana Shibli Nomani, Maulana Altaf Hussain Hali, Nawab Mohsin-ul-Mulk and Maulvi Abdul Haq are considered great colleagues of Sir Syed who brought the Muhammadan Anglo-Oriental College to its zenith. They proved the real friends of Sir Syed and the Muslims. The MAO College shaped a fresh value system among the Muslim students of India. Obviously, Sir Syed organised the movement with the help of his friendly team members. However, the role of Sir Syed Ahmed Khan in the Aligarh Movement was like the work of the heart in the human body.

Maulana Altaf Hussain Hali wrote the famous book of poetry entitled '*Madd-o-Jazr-e-Islam',* famous as *Musaddas-e Hali* at the request of Sir Syed Ahmed Khan.

DARUL ULOOM DEOBAND (Traditionalist Movement)

The British came to India for the purpose of trading; however, when they observed the weaknesses of the Mughals; they started taking interest in local politics. The decline of the Mughals started and the East India Company emerged as the new political power in India. The company established many trading centres in India. After the arrival of the East India Company in the subcontinent, the British also appointed a large number of officers in India. Their religious scholars and preachers also came along with them. The main purpose of these missionaries was the spiritual guidance of the British officers. However, it was a matter of concern that the Christian missionaries started a regular campaign to convert the Indians to the missionaries' religion. It was perceived as a direct threat to the Hindus as well as the Muslims.

These missionaries tried their best to spread Christianity amongst the Indians. Although, they initiated various projects for social services the soul behind them was to preach Christianity. The Muslims were very pensive regarding their religion. Sir Syed Ahmed Khan had already started his movement after the War of Independence. Most of the Muslim Ulema concerns that Sir Syed was a modern reformer who had been working on the pattern of the West but their offspring needed to be educated in pure Islamic teachings.

On May 30, 1886, in the Islamic month of Muharram, a great Muslim scholar founded an Islamic institution in a small mosque of Saharanpur named 'Chatta'. Saharanpur was a small town in UP. This Darul Uloom was established by Maulvi Fazal-ur-Rehman, the father of Maulana Shabbir Ahmed Usmani; and Maulana Zulfqar Ali the father of Maulana Mahmood-ul-Hassan. Moreover, Rasheed Ahmed Gangohi, Maulana Muhammad Qasim Nanotvi and Haji Muhammad Hussain Abid were also the pioneers of this Islamic institute. Initially, the idea was generated by the well-known religious scholar Haji Muhammad Hussain Abid.

Maulana Qasim Nanotvi prepared the following rules to run the Madrassa:

1. Unless there is no source of income for the Madrassa, it will be running without it, with the willingness of Allah Almighty;
2. The contribution of the Government and of the affluent people would be harmful to the Madrassa;
3. The funding from those would be graceful who will offer their contribution without the wish of their publicity;
4. The teachers should be of the same thinking and may not be selfish.

In the beginning, it was called a Madrassa but due to the un-tired efforts of Maulana Qasim Nanotvi, it changed into a popular Darul Uloom Deoband. After the death of Maulana Qasim Nanotvi in 1880, Maulana Rasheed Ahmed Gangohi was

appointed the caretaker and after that, Maulana Muhammad Yaqoob Nanotvi took over the charge. Sheikh Mahmood-ul-Hassan remained its *Sadr-e-Mudarris* from 1888 to 1920. After that Maulana Ashraf Ali Thanvi worked as its administrator.

In the initial days, the teachers started teaching under the shadow of a pomegranate tree. Sheikh-ul-Hind Maulana Mahmood-ul-Hassan was the first child who got enrolled there. However, at the end of the first year, the number of students grew to 78 and out of them 58 belonged to areas other than Deoband. Due to a large number of students, the Madrassa was shifted to a newly constructed mosque. The number of scholars and teachers increased day by day, and the foundation of independent building was laid in 1876. The system of education prepared by Shah Wali Ullah was implemented there. In its one hundred years of service, Darul Uloom Deoband produced more than seventeen thousand scholars, recognised world-wise.

The quality of the academy was that it was totally dependent on the people's contributions. The Muslims provided the funds to this Darul Uloom with open hearts. The Darul Uloom Deoband prepared a large number of scholars who played a remarkable role not only in the field of Islamic education but in the politics also. The well-known religio-political party founded by its Ulema was the Jamiat-e Ulema-e-Hind. Later on, the same was divided into two separate parties. The first was Jamiat-e Ulema-e-Hind and the second was Jamiat-e Ulema-e-Islam. The first was led by Sheikh-ul-Hadees of Deoband Maulana Hussain Ahmed Madani. The leader of this party Maulana Hussain Ahmed Madani and some of his friends were in opposition to the establishment of Pakistan.

Maulana Muhammad Yaqoob Nanotvi was appointed as the first Sadr-e-Mudarris (chief administrator) of this institution. However, Maulana Qasim Nanotvi also worked hard and succeeded in growing a small Madrassa of Deoband into a globally recognised Darul Uloom. The other quality of this Darul Uloom was that the great scholars of each subject were available here to teach the students. At the time of its inauguration, this was an Urdu medium Madrassa along with the subjects of Arabic and Persian. The administrators of the Madrassa understood the needs of students in their practical lives. Therefore, they arranged technical education for the pupils including shoe-making, bookbinding, and tailoring.

One of the brilliant students of Darul Uloom was Maulana Mahmood-ul-Hassan. After the completion of his education, he got attached to the Madrassa as a teacher first and then became the principal of this Darul Uloom. Maulana Mahmood-ul-Hassan served this institute for almost 23 years and rendered a great contribution to its advancement. He made the Darul Uloom so well-reputed that the foreigners also joined Darul Uloom for their studies. The disciples of this Darul Uloom founded the Deobandi school of thought.

The Darul Iftah was also founded here in 1893, under the command of Mufti Aziz-ur- Rehman. The objective of Darul Iftah was to provide guidance to the Muslims in the field of religion and economy. Its most important effort was the translation of the *Holy Quran* completed by Mahmud ul Hassan. The curriculum of

this Islamic Madrassa, called Dars-e-Nizami, was based on *Shariah* (Islamic law), *Fiqah* (Islamic jurisprudence) and *Tasawwuf* (traditional Islamic spirituality). The syllabus consisted of four different stages and was soon followed by many Madaris affiliated with it.

If we look at its objectives, we find that its great aim was to give comprehensive knowledge to the Muslim students about Islam. It was necessary at the time to teach them the *Quran*, *Tafseer* and *Hadees*. The Madrassa of Deoband fulfilled the objective of raising the real spirit of Islam among the Muslim students in a period of low morale. The qualified students were enabled to spread and teach Islam to other people. This was the sole institute of India during the British era that protected the liberty of Muslims in their judgments, thoughts, and actions. It was also a reality that the Darul Uloom was founded as an opponent of the Aligarh Movement of Sir Syed Ahmed Khan. Ulema of this school of thought were against the British while, Sir Syed provided his services with the cooperation of the British.

A large number of Ulema of other sects targeted the services of this Islamic centre. The disciples of this institute were awarded the title of 'wahabi' but in reality, this institute was not linked with the movement of Muhammad Ibn Abdul Wahab of Arabia. However, the movement of Abdul Wahab was an Islamic movement that developed during the Eighteenth Century for the revival of Islam in Arabia. On the other hand, the objective of Deoband was to train Muslim students in the field of Islamic education. Later on, the disciples of Deoband also played an outstanding role in the purification of the beliefs of the Muslims.

Today, a large number of Islamic schools all over the world including Pakistan, India, Afghanistan, Bangladesh, South Africa and the United Kingdom are theologically associated with Darul Uloom Deoband. Various graduates of Deoband established a number of theological colleges around the world including the Darul Uloom Sabeel-us-Salam in Hyderabad, India, the Madrassa Inaamia Camperdown near Durban in South Africa and many others in different cities of Pakistan.

DARUL ULOOM NADWATUL ULEMA (Reformist Movement):

Due to the miserable conditions of the Indian Muslims in the field of education; the two foremost institutions established by the Muslim scholars had been playing their role. Both of them were poles apart in their objectives. The Movement of Sir Syed focused on the promotion of modern education while the Darul Uloom Deoband was working in opposition to the Aligarh Movement with a focus on Arabic. The two institutions, in reality, were two schools of thought and both of them declared themselves the sole source of Muslim uplift. The Aligarh Movement had totally focussed on materialism and worldly progress while the Darul Uloom Deoband was insisting that the Muslims would get their success only by acting upon the religious teachings. The graduates of Aligarh had having keen interest in receiving superior jobs with higher honorariums, regardless of the fact that they were far from the Islamic teachings in their practical lives or not.

Contrarily, the scholars of Darul Uloom Deoband proved themselves as '*Khateeb* 'and Ulema but were deprived of the modern-day requirements of the jobs. There was a dire need to establish an institution that performed a moderate role in educating the Muslims. These circumstances forced the Indian Muslim scholars to set up such an institute through which the education of two types would be delivered at the same time. Many people targeted the services of Sir Syed Ahmed Khan saying that Aligarh was the factory of producing clerks acting upon Lord Macaulay's educational policies. On the other hand, the criticism of Darul Uloom was that it was only inculcating the Islamic education.

Maulana Muhammad Ali Mongeri decided in the convocation of Madrassa Faiz-e-Aam Kanpur in 1892 to establish an organization to remove the drawbacks that evolved among the Muslims. The name for this organisation was decided 'Nadwatul Ulema' and the following objectives were decided by its members:

1. Development of the knowledge and ethics amongst the Muslims through rectification of curriculum;
2. To originate the department of 'Afta';
3. To remove the differences amongst the Ulema and elimination of the controversial discussion;
4. To take measurement for the welfare of the Muslims without taking participation in the politics;
5. To establish an enormous Darul Uloom for the promotion of academic education as well as technical education.

During the session of the Muhammadan Educational Conference in 1894 at Kanpur, Nawab Mohsin-ul-Mulk presented a resolution to establish an institution which was supported by Syed Mahmood. Muhammad Ali Mongeri, Ashraf Ali Thanvi, Mahmood-ul-Hassan and Shibli Nomani were the great scholars who presented the idea of its foundation to counter the challenges of Western education. Sir Syed Ahmed Khan also agreed with it. Maulana Muhammad Ali Kanpuri was appointed as its first administrator. In December 1898, the office of the same institution was transferred from Kanpur to Lucknow. The initial classes of Darul Uloom started here. In the last week of November 1906, Sir John Prescott Hewitt, the then Lieutenant Governor of India laid down its foundation stone. Later on, the Nadwatul Ulema became the second well-known educational institution in the subcontinent after the Darul Uloom Deoband in India. The preference of the name Nadwa was conceived from a hall in Mecca, the assembling place of the upper class. The foundation session was attended by various well-known Muslim scholars belonging to all sects of the Ummah including Maulana Shibli Nomani and Maulana Abdullah Ansari. Maulana Shibli Nomani proposed to Maulana Mufti Lutf Ullah to chair the session.

The Nadwa reached the peak of its repute when Maulana Shibli Nomani got attached to it in 1904. He set the rules along with Maulvi Abdul Haq. The Nadwatul Ulema enhanced its status due to following its regulations. Shibli was a Professor

at the Aligarh College of Sir Syed; he demonstrated himself as a superior intellectual and scholar. Maulana Shibli Nomani had been providing his services to the Aligarh for almost sixteen years. Due to extreme ideological disparity, he separated himself from the Aligarh in 1898. He joined the Nadwa in 1904 after resigning from the government job.

Maulana Shibli was appointed as in-charge of the *Nadwa*. He made a lot of alterations to the curriculum and made it according to the needs of society. He devoted his full time to the services of *Darul Uloom*. He worked as the editor of the magazine of *Nadwa* also. Maulana's great work for the *Nadwa* was the establishment of the *Darul-Musanifin* at Azamgarh. In 1913, he also resigned from the position of secretary of the Nadwa due to differences between him and another member of *Darul Uloom*. Then, he set up the *Anjuman Isalh-e-Nadwa* for the betterment of this institute. After the Shibli's departure, the *Nadwatul Uloom* lost its attractiveness. Although, many other scholars working for the *Nadwa* as its administrators; however, its reputation could not shoot up as high as it was found at the time of Shibli.

The *Nadwatul Ulema* shaped a number of famous scholars including Syed Sulaiman Nadwi and Maulana Abul Kalam Azad. Some of the graduates of Nadwatul Ulema proved freedom fighters of the Pakistan Movement including Syed Sulaiman Nadwi, Masood Alam Nadwi and Abdul Salam Nadwi. Maulana Shibli Nomani served as a writer here and wrote remarkable books. One of the most memorable books was '*Seerat-un-Nabi*' in seven volumes; which he could not complete in his life. The same was completed by his disciple Syed Sulaiman Nadwi after the death of Maulana Shibli Nomani.

The *Nadwatul Ulema* is an institute of Islamic education situated in Lucknow but fruitful all over the India. Thousands of Muslims from all over the world came to learn here. The *Nadwatul Ulema* promoted a diverse series of both scholars and students including *Hanafis*, *Shafais* and *Ahl-e-Hadith.* Moreover, its main achievement was the promotion of Islamic and moderate education amongst its scholars.

JAMIA MILLIA ISLAMIA (Reformist Movement):

On the demands and needs of the time, a new institution was formed named '*Jamia Millia Islamia*. The *Jamia* means 'University' or 'House of WWisdom' while *Millia* means 'National'. In this way, it was the national university of India. It initially originated in Aligarh in November 1920. This was established by a group of 18 Muslim intellectual members. It was founded by Sheikh-ul-Hind Maulana Mahmud Hassan when he returned from *Malta* after releasing by the British. The first chancellor of the Jamia Millia was Hakeem Ajmal Khan; he was elected on November 22, 1920. Allama Muhammad Iqbal was also offered the Vice Chancellor-ship of this Jamia through Gandhi but he rejected this offer. Maulana Mohammad Ali Jauhar was its founder Vice-Chancellor. The prominent members

of its Founding Committee were Abdul Majeed Khawja and Dr. Mukhtar Ahmad Ansari who worked for its growth.

According to its foundation, the Jamia Millia was established as an anti-colonial movement. It aimed to provide the religious education to the Muslims in an independent environment. The movement was against the British; therefore, it was run exclusively with the assistance of the government. One of its purposes was to provide Islamic education but according to the ambitions of the Indian Muslims.

Its pioneers wanted to educate the nation free from the control of government. That is why; its curriculum included the teachings of religion, morality, and cultural background. The Muslims were afraid of the British education system and wanted to educate their offspring in their own hands. We know that many other movements for education had been initiated by the Indian Muslims. Although, the Aligarh Movement, the Darul Uloom Deoband and the Nadwatul Ulema had their separate systems of provision of education but it is confirmed that their sole aim was to bring out the Muslims from the darkness of hopelessness and ignorance. All of them carried on their struggle in their own way.

The *Jamia Millia Islamia* was administrated by those people who had devoted themselves to the sack of Muslims and were strongly dedicated to fulfil their commitment. Its mission was to promote the faith and ideology of independence and struggle for freedom. It also worked for the sack of Hindu Muslim unity to some extent. The Jamia tried to provide an atmosphere of self-driven education. The teachers of this Jamia were highly impressive and they devoted themselves to the services of this institute.

The Jamia proved itself as a progressive educational movement in South Asia. Most of its administrators were also involved in the Khilafat Movement; therefore, the students and teachers of Jamia Millia played an active role in non-cooperative actions against the British. In response to the annihilation of *Jalianwala Bagh*, the non-cooperation movement was launched by Gandhi on January 1, 1921. The students and teachers of Jamia Millia Islamia took part in it along with Hindus. Most of its teachers as well as the students were imprisoned by the British Government due to the Khilafat Movement. The movement went towards agitation and the insensitive incident of Chauri Chaura occurred in 1922. The government took action strictly and then Mr. Gandhi called off his Non-cooperation Movement. When the students and teachers of Jamia Millia were being released meanwhile the institution of Khilafat was eliminated by Mustafa Kamal Ataturk in 1924.

The leaders of Jamia Millia Islamia including, A. M. Khawja, Dr Mukhtar Ahmed Ansari and Hakim Ajmal Khan decided to shift the Jamia in 1925 from Aligarh to Karol Bagh near Delhi. It is like to remember that Mahatma Gandhi was the supporter of this Jamia. He increased the self-esteem of Jamia and said: *'The Jamia has to run. If you are worried about its finances, I will go about with a begging bowl'*. The Muslim leaders of Jamia had agreed to follow the productive agenda of Gandhi and it took to Charkha and Takli as favoured vocations.

In times of crisis, the Jamia also get an advantage from the contacts of Gandhi to receive financial advantages. Due to their lofty attachment to Gandhi, many Muslim scholars, thinkers and politicians thought it was a sign of destruction for the Muslims. However, the Jamia never remained totally dependent on Gandhi as throughout the hard days Hakim Ajmal Khan provided a large part of its expenses from his own pouch. Dr. Mukhtar Ahmed Ansari and Abdul Majeed Khawja travelled all around India and out of the subcontinent also; where they explained the mission and significance of the Jamia Millia. They collected funds for this enormous institute. Due to these efforts, the Jamia could maintain its existence; otherwise, it was certainly near to its fragmentation.

The fortune of Jamia Millia Islamia awakened when in 1925, after lengthy discussions; three Muslim moderate scholars including Dr. Mohammad Mujeeb, Dr. Zakir Husain and Dr. Abid Husain decided to offer their services to the Jamia. All of them were settled in Germany. They left Germany and joined the Jamil Millia Islamia on very nominal salaries. Dr. Zakir Hussain was an economist; a PhD from the University of Berlin, having a charismatic personality. Dr. Abid Husain was an educationist and a graduate from Europe while Dr. Mohammad Mujeeb was a reformer and a scholar of history. The very next year in the month of February 1926, all of them left Germany and they joined the Jamia Millia Islamia.

As we have discussed the financial issues of Jamia, it was very difficult for it to pay the highly qualified scholars. Dr. Zakir Husain was appointed on a monthly salary of Rs. 100 but realizing the financial conditions of the Jamia, he voluntarily reduced his salary to Rs. 80 per month. Dr. Mohammad Mujeeb and Dr. Abid Husain were appointed on the monthly payment of Rs. 300 each. However, looking towards the limited resources of Jamia, they also reduced their salaries to Rs. 100 each. Each of them was highly committed; their first step was the provision of education to Adults. For this purpose, they arranged classes in the evening and this effort was highly appreciated by the public. When the Civil Disobedient Movement started against the British; it took part in the Bardoli Satyagraha of 1928. The Jamia Millia Islamia dispatched volunteers all over the country to motivate the natives to struggle against the British for the liberty of the country.

After the death of Hakim Ajmal Khan in 1928, once again the financial crises emerged. In the same year, Dr. Zakir Hussain became its Vice-Chancellor and now the management of Jamia moved into his hands. Dr. Zakir Hussain along with other teachers decided to carry on his services with nominal charges for the next twenty years. Dr. M.A. Ansari passed away in 1936. After three years of his death, the Jamia Millia Islamia was registered as a society on June 4, 1939. Despite financial difficulties, the efforts of the teachers of the Jamia were remarkable. It was converted into a massive movement and various notables from overseas came to India to visit the Jamia. Some foreigners were too impressed and they remained here to serve the Jamia. The German woman Ms. Gerda Philipsborn, an educationist and social reformer stayed here to serve the Jamia. She was popularly known as

Aapa Jaan and after her death, she was buried inside the Jamia.

The first reason for its fame was the sacrifices of its teachers. The scholars of the highest ranks were ready to work for the lowest salaries. Its second feature was the simple lifestyle of its faculty and students. The promotion of simplicity remained the aim of this institution. The third quality of Jamia was that it provided the education of techniques and skills; bookbinding, locks making and dairy farming enabled its students not to search for jobs. Another superiority of the Jamia was the establishment of its Urdu Academy.

A famous Muslim scholar and well-known freedom fighter, a disciple of Shah Wali Ullah, Maulana Ubaid Ullah Sindhi joined this institution in 1939. He joined it at the request of Dr. Zakir Husain. In this Jamia, Maulana initiated 'Baitul Hikmah' a school of Islamic Studies. This was the same Zakir Husain who later on, became the third Vice President of India from 1962 to 1967. Dr. Zakir Hussain died on May 3, 1969; his tomb is also inside the Jamia Millia Islamia. The Jamia Millia Islamia was awarded the status of central university in 1988.

ANJUMAN-E-HIMAYAT-E-ISLAM (Reformist Movement):

When the British occupied the province of Punjab in 1849; they started their struggle for the promotion of Western education. They did it for the uplift of Indians apparently but the mission at the back of it was the promotion of Christianity, not acceptable for the Muslims. In South Asia, a large number of missionary schools were established by the British. In 1864, the Government College Lahore was initiated but the Muslims kept them away from the Western educational setup. Moreover, the Hindu students were very in the number who succeeded in getting enrolment in it. Education was only for the Hindus while the Muslims remained deprived of its benefits. Therefore, the Muslims wanted to originate their own institutions, so some of the Muslim leaders decided to create the Anjuman-e-Himayat-e-Islam to serve the Muslims.

The Anjuman-i-Himayat-i-Islam was an association of Muslims founded in Lahore on September 24, 1884. This association was established in a mosque named '*Masjid Bakan*' of Lahore; near the famous Mochi Gate by Qazi Hameed-ud-Din. Its first president and the general secretary were Qazi Hameed-ud-Din and Ghulam Ullah Qasuri respectively. Munshi Abdul Rahim, Munshi Chiragh-ud-Din, Dr. Deen Muhammad, Najm-ud-Din and Haji Shams Khan provided their services for this association. The Anjuman acquired a single room on rent and started its activities. The following objectives of the Anjuman-e-Himayat-e-Islam were decided:

1. Religious teachings along with worldly education to the Muslim students;
2. Protecting and publishing the Islamic values;
3. Carry on the struggle for Muslims' social and cultural development;
4. Answering the activities of Christian and Hindu preachers.

The Anjuman started its activities having limited financial resources. Its

income remained Rs. 754 only in its opening year while the spending amount was Rs. 344 for the entire year. However, its income was generated rapidly due to the efforts of its members. The Muslim authors reserved the income of their books for the Anjuman. Some Muslim proprietors including Mehr Ali of *Hushiar Pur* and Sultan Shah Jahan Begum of *Bhopal* donated funds for the Anjuman.

The Anjuman-e-Himayat-e-Islam started its activities with the opening of two girls' schools at the primary level. However, many schools and colleges for males and females were established as time passed by. This association also installed its own printing press in1886 where the books were printed. The same year the Anjuman also launched a magazine in which the social-political, religious and economic issues were discussed. It was first time published in 1885, entitled *Risala-e-Anjuman-e-Himayat-e-Islam*. The Islamia College Lahore was founded by this association in 1892. It established various institutions for educational and social services including the Dar-ul-Shafqat, one for male and other for female students, One Dar-ul-Aman for women, the Himayat-e-Islam Boys High School, the Himayat-e-Islam Pasha Girls High School, the Himayat-e-Islam Younani Shifa Khana, the Himayat-e-Islam Girls Degree College and the Himayat-e-Islam Library. The Anjuman also established an orphanage entitled the Yateem Khana in 1884. It is obviously a matter of honour for the Anjuman as Allama Iqbal served as its president from 1934-37. Today, the association is known in Pakistan as a leading institute for orphans. The association has been working also in India as well as in Pakistan. The offices of the Anjuman-e-Himayat-e-Islam in both countries have their separate websites.

The political services of this association are undeniable along with its educational efforts. It had played a great role in the Muslims' struggle for freedom. Maulana Altaf Hussain Hali, Sir Muhammad Shafi, Sir Syed Ahmed Khan and Allama Muhammad Iqbal were the leaders of top quality who remained in touch with this association. They attended its annual meetings and promoted their message of struggle under its banner. The students of its colleges stood with Quaid-i-Azam for the demand of Muslims' rights and later on for Pakistan. The famous political party of students 'Muslims Students Federation' was also an effort of the Anjuman-e-Himayat-e-Islam.

SINDH MADRESSATUL ISLAM (Reformist Movement):

In 1843, Sindh became the part of Bombay Presidency and then the social condition of the Sindhi Muslims began to fall down. The Muslims were neglected in educational institutions by the Hindus majority. The Aligarh Movement of Sir Syed Ahmed Khan was already making efforts for the betterment of Indian Muslims. Syed Amir Ali, one the companions of Sir Syed Ahmed Khan; came to visit Sindh and got worried for the Muslims of Sindh due to their educational deterioration. Meanwhile, Hassanally Effendi was also pensive for the future of Muslims in Sindh. He was the president of the Central Muhammadan Association,

Karachi Branch which was founded by Syed Amir Ali. Hassanally wanted to originate a Madrassa in Karachi on the pattern of Aligarh and at last, the Sindh Madrassatul Islam was founded by Khan Bahadur Hassanally Effendi on September 1, 1885. Hassan Ali invited some of his friends to its opening ceremony. At the time of its opening, Hassanally delivered his speech for almost two hours. He described the socio-economic situation of Sindhi Muslims who were in bad condition. He expressed his wish to bring positive changes in the lives of Muslims of Sindh. The Madrassa was established in a rental building near the famous oBolton Market in the heart of Karachi. The building was shifted to Frere Road in the very next year and the new building was laid down by Lord Dufferin in 1886. By 1895, he and his associates had promoted the institution of Sindh Madressatul Islam into a Centre of Excellence. At that time, it had a high school, having its three primary branches of Urdu, Sindhi, and Gujarati. The administration of the Madrassa arranged the teachings of the *Quran* as compulsory. The first batch of this institution passed the exam in 1892 held by the University of Bombay.

In 1896, Hassanally Effendi died and then his son Wali Muhammad looked after the institution. Wali Muhammad carried on his services for Madressa till his death in 1938. The Madrassa is included one of the oldest educational institutes in South Asia. Mr. Muhammad Ali Jinnah, the founder of Pakistan also studied in the Sindh Madressatul Islam. He remained its student for a long time from 1887 to 1892. Mr. Jinnah granted one third of his personal property to this Madrassa. In 1943, the Madrassa was awarded the status of College. Mr. Muhammad Ali Jinnah came here and inaugurated it as the Sindh Madressatul Islam College. He was very emotional at that time while he was addressing the audience saying that: ‘He knew every inch of the splendid grounds of the institution where he had studied and played as a schoolboy fifty five years earlier; ‘Every inch of these splendid grounds where I took part in various games’. The Sindh Madressatul Islam not only continued to spread knowledge but the students of this great institute took an active part in the struggle for freedom. The Madressa completed its responsibilities well in the spiritual training of its students. Sir Ghulam Hussain Hidayat Ullah (the first Governor of Sindh), Sir Shah Nawaz Bhutto, and Rasul Bux Palejo were the most famous personalities of Sindh and graduates of this institution. In 2002, the same has achieved the status of a Public Sector University by the Higher Education Commission of Pakistan.

ISLAMIA COLLEGE PESHAWAR (Reformist Movement):

The Islamia College Peshawar is a historical educational institute of Peshawar. Like other educational movements, it is also considered a movement. The Pakhtuns had concerns due to educational-cum-religious activities of missionaries. The British Government took a keen interest in establishing a number of missionary institutions all over the South Asia. Modern education in present-day

Khyber Pakhtunkhwa started with the establishment of missionary schools. The Mission SSchool Peshawar was founded in 1868 which was later on upgraded into a college and was named Edward College. This name refers to a British colonial administrator, Sir Herbert Edward. Due to a number of concerns, the Muslims established their own institutions in opposition to the British. The Muslims wanted to establish their educational institutes where their offspring could also attain Islamic education. For this purpose, the Anjuman-e-Himayat-e-Islam launched an Islamic educational institution in Peshawar. The Anjuman established the Islamia High School in 1902 to educate the Muslim children. The Anjuman tried its best to promote the education in North-West Frontier region like other areas.

Besides, Sahibzada Sir Abdul Qayyum Khan established Darul Uloom Islamia in 1913 and the next year it was upgraded to a college. Sahibzada Abdul Qayyum Khan appointed some British staff to this college and achieved a financial grant from the British. The acknowledgment of the success is to Sir Sahibzada Abdul Qayyum Khan who is usually identified as Sir Syed of the Frontier. He did remarkable service due to having sincere friends and colleagues with him.

The Islamia College Peshawar became a symbol of academic excellence in Peshawar. Its building is considered the best picture of the Muslim civilization in - Indo-Pakistan. Its green lawns remained a source of attraction for visitors from all over the country and overseas. The Islamia College accomplished its objectives by being a mixture of the Aligarh and the Deoband school of thought. The students of Islamia College Peshawar played an enormous role in the Pakistan Movement. In 1936, Mr Muhammad Ali Jinnah (Quaid-i-Azam) came to visit it when the Muslim League was a nominal party. He again visited it to boost the spirit of youth for the achievement of Pakistan in 1945. Quaid-i-Azam also made a huge contribution from his wealth to this college. As the Governor General of Pakistan, Jinnah once again came here on April 12, 1948, to pay thanks to the students even in his illness. This proved his third and the last visit. Here he said in his speech:

> "One thing more I would like to say is that there is some impression that the public is kept away from me. This you may call the Government's management or the State visit of mine. I want this impression to be removed. I want to make it clear that the public is absolutely free to do what they like, provided they maintain discipline; whereas the public gets so excited that they break every rule and every arrangement in their enthusiasm and regard for me. But that does no good to anybody and it is dangerous. Therefore, I wish that everyone will impress upon the people especially my young friends to line up if they want to see me. You can by all means come and see me with full freedom, but line up properly, keep order and maintain discipline so that I can comfortably pass as the object is that I should see you and should see me.

Mr. President, Ladies and Gentlemen, I thank you again for the honour you have given me today.

2.4 Muslim's Political Response: From Opposition to Cooperation and Agitation

The Indian Muslims and Hindus fought the War of Independence against the British to push down them but they could not get success. After the war of independence, the Hindus separated their way from the Muslims. Authors like Faiq Kamran and Tara Chand have the opinion that the British launched the policy of 'divide and rule' in the India as they initially created the Indian National Congress in 1886 and the All India Muslim League in 1906. The British always talked for the unity of India but in practice, they did for the separation of Hindus and the Muslims.

During the War of 1857, the Indian Muslims adopted the policy of opposition towards the British and took part in the war along with Hindus. The reason for the Muslim' opposition was the policy of East India Company as they targeted not only the Muslim rulers but the common people, particularly the farmers. The agricultural taxes on the Muslim peasants were implemented with the highest rates. Although, Sir Syed Ahmed Khan adopted the policy of affiliation towards the British government, on the other hand, he prepared the powerful educated Muslims who demanded their socio-political rights from the government in the future. The Hindus and Muslims were united during the war of independence but after the failure of war, both nations started conflict with each other on many issues.

The Hindi-Urdu controversy appeared in 1967 which brought the two nations opposed to each other. The Hindus were against the Urdu language and they wanted to implement Hindi as an official language. Sir Syed Ahmed Khan was a Muslim leader who realized well that the Muslims wouldnot be able to live with the Hindus as they had a negative temperament towards the Muslims. That was why, Sir Syed advised Indian Muslims to avoid politics as well as from the Congress. Sir Syed was a visionary Muslim leader who knew that the Indian National Congress was the Hindu dominant party that would never struggle for the rights of Muslims. On the other hand, the Aligarh movement tried to carry on the educational, economic, political and ethical development of the Muslims in India. Sir Syed died on 27 March 1898, while his college had prepared a large number of leaders from the Muslim community who led the Muslims, particularly in the field of politics.

The political response of the Indian Muslims was according to the situation as they responded from opposition to cooperation and then from cooperation to agitation. The Muslims repeated their cooperation many times but they got sustained positive responses neither from the Congress nor from the Hindus. After the War of Independence (1857), the Hindus were in the lines of the British and they declared that the Muslims were only responsible for the rebellion while Hindus

were innocent. The Hindus moved the movement against Urdu in 1867 just after a decade of the war of independence. The Muslims demanded their rights when they met Lord Minto on 1st October 1906. They established the All India Muslim League in the same year on 30th December. The Muslims' demands were approved in the Minto-Morley Reforms in 1909 and it was a great success for the Muslims of South Asia. The Muslims could even stay at a distance from the Hindus but the Muslims tried their best to cooperate with the Hindus and Congress once again during the Lucknow Pact under the leadership of Mr. Mohammad Ali Jinnah, the prominent Muslim leader of that time.

The Khilafat Movement was another example of cooperation between the Hindus and the Muslims. The Hindus and Muslims worked together to save the Caliphate in Turkey; however, the movement was hijacked by the Hindu leaders and the Muslims were astonished at what happened to them at the close of this movement.

The Muslim leaders realized the Hindus' reality and their attitude towards the Muslims during the Congress rule during 1937-39 when the Muslims of the subcontinent were kept down from the Congress government. At last, the Lahore Resolution was presented by AK Fazal-ul-Haq, the prominent Muslim leader of Bengal, and it was whole-heartedly approved by the Muslim leaders and participants of the meeting on 24th March 1940.

The Muslims came towards agitation once again after the approval of the Lahore Resolution due to the non-cooperative attitude of the Hindus. The Congress leaders never responded positively to the Muslims during the years when the Pakistan movement was in its full swing during 1940-47.

During this period, the Cripps Mission (1942) and the Cabinet Mission Plan (1946) came to India. It a matter of interest that the British wanted to keep India united, and the Congress was against the partition of India; even the Muslim leaders of Congress like Maulana Abul Kalam Azad had the opinion that India should be united because, in case of partition, the Indian Muslims will be distributed and will lose their power. Mr. Jinnah and the Muslim League also agreed not to divide India; but why Pakistan came into existence and why the united India was partitioned? The reason is that the Muslim League wanted to secure legal protection for the future of Indian Muslims as Mr. Jinnah had been demanding one-third of seats for the Muslims in the central legislative assembly while the Hindu leaders were not ready to give any legal protection to the Muslims.

SELF ASSESSMENT QUESTIONS:

1. How East India Company came to India and why it took interest in politics.
2. Highlight the rule of East India Company in South Asia.
3. What were the causes, events and reasons of failure of the War of Independence?
4. Discuss the social services of Anjuman-e-Himayat-e-Islam.
5. Describe the educational services of Sindh Madressatul Islam for the Muslims of Sindh.
6. Keeping in view the visits of Quaid-i-Azam Muhammad Ali Jinnah, highlight the role of Islamia College Peshawar for the uplifting of the people.
7. Describe the role of Jamia Millia Islamia in the uplifting of Muslims of South Asia.
8. Jamia Millia Islamia contributed well to the development of the Indian Muslims. Discuss.
9. Discuss the services of Darul Uloom *Nadwatul Ulema* for the sake of Muslims.
10. Nadwatul Ulema gave the Modern and Islamic way of education to the Indian Muslim learners. Discuss.
11. Highlight the services of Darul Uloom Deoband for the promotion of Islam in real meaning.
12. Elaborate on the role of Muslim Scholars in the revival of Muslims in South Asia under the organization of Darul Uloom Deoband.
13. Evaluate the Muslim's political response in India from opposition to cooperation and agitation.

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Unit- 03

TWO NATIONS THEORY: MUSLIMS' STRUGGLE FROM SEPARATE ELECTORATE TO A SEPARATE STATE

Written By:
Samira Naqi

Reviewed By:
Prof. Dr. Anwar Shaheen

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INTRODUCTION

This Unit reveals the detailed discussion regarding the Two Nations Theory and the Muslim's struggle from a separate electorate to a separate state. This is the third Unit of the book which provides vast information regarding the Muslims' struggle in South Asia. In the initial pages of the chapter, the author discusses the rise of Muslim separatism in India from 1867 to 1905. During this period the Muslims remained out of politics at the recommendation of Sir Syed Ahmad Khan but they carried on their efforts to get a modern education. The next phase is about the Muslim political activism from 1906 to 1915. In 1906, the All India Muslim League was founded, and under the banner of the Muslim League, the Muslims succeeded in getting the favour of the British as they were awarded the right of a separate electorate in the British India.

In this Unit, the politics of cooperation and accommodation from 1916 to 1929 have been described in detail. Mr. Jinnah joined the Muslim League in 1913 and he attained the title of 'Ambassador of Hindu-Muslim Unity' in response to Lucknow Pact (1916). The Hindu-Muslim Unity was also observed during the Khilafat Movement but at the end of the movement, the Muslims made their ways separate from the Hindus.

In the following paragraphs, the author has discussed the Pakistan Movement and the services of Quaid-e-Azam Mohammad Ali Jinnah and his efforts for the demand of a separate state from 1940 to 1945. The Cabinet Mission Plan 1946, the 3rd June Plan, the Indian Independence Act 1947 and the Transfer of Power have also been discussed at the end of the chapter. During this phase, Mr Jinnah was the real leader of the Indian Muslims who fought the war for the rights of the Indian Muslims.

OBJECTIVES

After reading this chapter, you will be able:

1. to know about the rise of Muslim separatism in India during 1867-1905.
2. to learn about the Muslim political activism during 1906-1915.
3. to know about the politics of cooperation and accommodation from 1916 till 1929.
4. to learn about the efforts of Jinnah and the demand for a separate state from 1940 to 1945.
5. to learn about the Muslim political mobilization and Jinnah's struggle for the creation of Pakistan during 1945-1947.

3.1 THE RISE OF MUSLIM SEPARATISM IN INDIA (1867-1905)

As we have briefly discussed the situation of the relations between the Hindus and Muslims in the previous chapter, now we will discuss the rise of Muslim separatism in India from 1867 to 1905 in the following pages.

HINDI-URDU CONTROVERSY:

Most linguists agree that the Urdu language is a product of the Hindu-Muslim interaction in the South Asia. Actually, Urdu is a combination of various languages like Persian, Hindi, Turkish, Arabic and others. Prof. Dr. Abu-ul-Lais Siddiqi argued that Urdu was actually the product of Hindu-Muslim relations and social communication. On the other hand, K. K. Aziz is of the opinion that Urdu had borrowed more freely from Persian and Arabic. However, some of its sweetest phrases had been derived from Hindi; therefore, it was always perceived as the language of the Indian Muslims. Particularly, since the reign of the Mughals, the Persian script was used for Persian as the court language, and that was much related to Arabic scripts, Urdu got the facility of being written in Persian script and it derived from both Persian and Arabic went on unhindered. In short, we can say that Urdu was developed in the subcontinent through the joint efforts of Hindus and Muslims. However, the Hindus contributed more than the Muslims as the Muslims were their ruler, so, the Hindus used various Persian words in Urdu as well as in Hindi to please their masters.

The British had also performed commendable work for the promotion of the Urdu language and literature in the subcontinent. They established Fort William College with the beginning of 19th century (on 10th July 1800) at Calcutta within the Fort William Complex. It was established with the efforts of Lord Wellesley who was the Governor General of British India at that time. There the books of local languages were translated into English as well and the new books were written in Urdu language. The college proved not only a platform for the scholars but also a training centre for the British officers to develop command on local Indian languages. Muslims had a great attachment to Urdu and wanted its progress as they were in the minority.

Persian remained the official language in India for many centuries but it was replaced by Urdu in 1837 by the British. However, in North India, (it includes states of Punjab, Haryana, Uttar Pradesh and Bihar; states of Uttarakhand, Himachal Pradesh, Jammu and Kashmir and the Thar desert) Urdu (in the Urdu script) was implemented to replace Persian instead of Hindi in DevaNagri script. As a large number of Persian words had become part of Urdu; therefore, the Indian Muslims had an emotional attachment to it. Consequently, they welcomed this decision taken by the British government. Though, it did not bring pressure from the Hindus but with the passage of time, the tension continued to grow. The most immediate reason

for the controversy was the conflicting language policy by the British in North India in the 1860s. The government promoted both Hindi and Urdu languages as mediums of education in schools, but it enhanced the desperation of Hindi or Nagri script for official purposes. It gave rise to disputes between the students educated in Hindi or Urdu for securing the government jobs; which ultimately converted into a communal conflict. Some Hindus in 1867, from the United Provinces of Agra and Oudh started demanding that Urdu should be replaced as an official language by Hindi. As time passed by, the issue became religious and cultural instead of linguistic. Finally, it was converted into communal riots. Ten years after the war of independence; in 1867, the Hindus started a movement against Urdu from Banaras. Babu Shiva Prasad was one of the early advocates of the Nagri script. In 1868, through a memorandum on court characters, he charged that the early Muslim rulers had forced them to learn Persian.

It separated the ways of Hindus and Muslims forever. Why the Hindus want the implementation of Hindi in offices? As Persian had become the language of an elite class of Muslims and Urdu was the official language therefore, the Muslims had scope for better jobs than the Hindus at that time while that situation was not acceptable for the Hindus. The Muslims community and their leaders showed tolerance and patience initially. Sir Sayed Ahmad Khan was one of the well-known Muslim leaders and an advocate of a composite Indian nation. He was in the favour of friendly relations between both communities. Therefore, he was also in favour of strengthening the cultural bonds between the Hindus and the Muslims as he thought that India would make no progress without it. He wished to see both nations living united in the subcontinent.

He expressed his feelings in the following words:

'India is the motherland … for both of us (that is the Hindus and the Muslims) who breathe in the same air, drink the water of the holy […] rivers of Ganges and Jumna and consume the product of the same soil. Together we face life and death. After dwelling long in India our blood has changed its original colour. Now the colour of our skin is the same; our features are alike. We, the Muslims and the Hindus have exchanged many of our social customs. We have merged so much into each other that we have produced a new language – Urdu –which was the language of neither of us'.

Sir Syed Ahmed Khan also declared Hindus and Muslims like a bride.

He said that

'I look to both Hindus and Muslims with the same eyes and consider them as two eyes of a bride. By the word nation, I only mean Hindus and Muslims and nothing else. We Hindus and Muslims live together on the same soil under the same government. Our interests and problems are common and therefore I consider the two factions as one nation.'

On the other hand, Nagri Pracharini Sabha was an organization set up for the promotion of the Hindi language, especially its writing in its script called

nagaDevanagari or Nagri. It was founded in 1893 at the Queen's College, Varanasi (Banaras). At the time of formation, it had the following aims.

a. To grow and encourage *Nagri*; three steps were decided in this regard. (I) Use of *Nagri* in discussion and letter-writing. (II) Translation of various books into *Nagri* and (III) Development of the Hindi language through writing articles in Hindi newspapers.
b. To correlate with other organizations in the subcontinent for the promotion of Hindi.
c. To work for the harmony, unity and integrity of the Hindu community.

Some of the rules formulated in the first Congress (here congress means session or meeting) for the functioning of the *Sabha* were:

1. There will be three types of sessions of the *Sabha* every year, weekly, quarterly and annual. It was decided that the weekly session would be held every Saturday for discussion of topics other than religion and politics.
2. *Sabha* shall have the following offices for its organization; President, Secretary, Deputy Secretary and Treasurer.
3. Any male can become a member by applying to the secretary.
4. Every member shall have to pay a minimum of one *AAana* (one sixteenth of a rupee) as a monthly subscription or 12 aana per year.

At the time of the formation of the *Sabha*, only 12 members attended its first Congress (or gathering). These members were the pioneer associates of the institution. The *Sabha* made progress day by day and by the end of the year, its membership grew up to 82.

One of the main objectives of the first session of the *Sabha* was to spread the knowledge of Hindi and the use of the *Nagri* script. To achieve the same objectives *Sabha* commenced a programme from the very beginning; while at the end of the 19th century, there was a new move to introduce both the Roman and *Nagri* scripts in transactions in the government offices.

Although Sir Syed Ahmed Khan was in his terminal illness struggling for his life and death in those days, he wrote an article in opposition. The article was published in his *Aligarh Institute Gazette*; anyhow, after a few days, Sir Syed died.

Anthony Patrick McDonald (known as Sir Anthony McDonald) was appointed Lieutenant Governor of the United Provinces *of Agra and Oudh* in 1895 and he continued this office till 1901. As he took charge of his office, he provoked the Hindus and worked as a promoter of the Hindi language during his governorship. On 2 March 1898, a memorandum with the sixty thousand signatures was presented to Sir Anthony McDonald; the Lieutenant-Governor of U.P. by *Sabha* and it was demanded that the *Nagri* script may be allowed in government offices and in courts. The said memorandum was accompanied with a monograph

(written detailed) entitled: *Court Character and Primary Education* by a famous advocate of Allahabad, Madan Mohan Malaviya.

Hindus now started claiming that they were in the majority in numbers and could understand Hindi more easily than Urdu. Moreover, the adoption of Hindi in DevaNagri script would make government work more painless. On the other hand, they opposed Urdu saying that the script of Urdu was of foreign origin and compound of Persian and Arabic words and inaccessible by common people. While advocates of Urdu claimed that writing the Urdu language is easier than Hindi.

The Hindi-Urdu controversy touched new heights in April 1900. *Sabha* succeeded in her goal on 18 April 1900, when the government of U.P issued a notification through which both languages Nagri and Persian were allowed to write the applications, summons, notices and other official letters.

Urdu defenders took out demonstrations and held protest-meetings throughout the subcontinent, especially in north India. McDonald allowed the use of Hindi manuscripts while Muslims recorded their protest against this action under the leadership of Nawab Mohsin-ul-Mulk. He communicated during his address at the meeting of Urdu Defence in 1900 how can British government neglect us; I hoped that the government would not let our language die.

Hindi-Urdu controversy was in fact a product of the inner feelings of Hindus against the Muslims. Though the Muslims had kept quiet politically, however, now it was the right time for the Muslims to come to know that the movement started by Hindus against Urdu was the movement also against Muslims. Sir Syed Ahmad Khan was the sole leader among Muslims who had so far supported the Hindu-Muslim alliance. Syed considered that Hindus and Muslims should be a single nation; however, he was not at ease due to narrow mindedness of the Hindus. After some time, he became convinced that the Hindus did not consider the Muslims as a part of their nation; his ideas suddenly changed. Therefore, he diverted his efforts to Muslims' uplift through his educational and reformation policies. Now Sir Syed Ahmad Khan started his struggle for the growth of Urdu.

Once he was sitting with Mr. Shakespeare, the Commissioner of Banaras. They were deliberating on the Muslims' educational issues. He looked at Sir Syed amazingly and asked that: 'it is the first time that I have heard your discussion specifically about the Indian Muslims. Before this, you consistently spoke about the welfare of the common Indians'. In response to the question of Mr. Shakespeare Sir Sayed was forced to ask him that the time had come when he started believing that both communities would not put their hearts in any project together. It was nothing but just the beginning and in the coming times, an ever-increasing hatred and bitterness appeared on the scene simply because of those who were considered as an educated class.

SIMLA DELEGATION:

The Indian Muslim Leaders organized themselves into a group of 35 most effective members; they met Lord Minto to present their demands. These demands were part of the series of their political activities. The deputation was planned for many reasons; some of which are described in the following lines.

Local Bodies System (1883): The system of Local Bodies was introduced in 1883 under the Ilbert Bill by the viceroy Lord Ripon. Then Municipal Committees and District Boards were introduced through this bill. However, only those could vote in the local bodies who were wealthy or highly educated. So the Muslims were very short in numbers who could vote even in the areas of Muslim majority due to their poverty and less education.

The Indian Councils Act 1892: The size of the various legislative councils was increased in British India according to this Act. This Act did not prove useful or beneficial for the Indian Muslims as they remained deprived of representation. Sir Syed Ahmad Khan had already rejected the system of joint electorate in the year 1883.

Change in British Politics: In the year 1905, the Liberal Party came into power in Britain; Lord Minto was appointed as Viceroy of India. The Indian Muslims were in search of a better chance to raise their demands.

Partition of Bengal: Lord Curzon, having a good administration record remained the Viceroy of the Indian Subcontinent during 1899-1905. He partitioned the Province of Bengal in 1905 for administration purposes. A Lieutenant Governor was appointed for the administration. The population of Bengal was almost 70 million including Bihar and Orissa also. Millions of inhabitants were under-privileged in the Bengal and its surroundings. The economy was dominated or controlled by the capitalists of Calcutta at that time. Lord Curzon divided it and created a new province of East Bengal. The new province included the Aasam, Dhaka, Rajshahi and Chittagong Divisions. West Bengal included the areas of Bihar and Orissa, where the Hindus were in the majority. Muslims gained prosperity and happiness in this division as they were in an advantageous position in the East Bengal. Dhaka was the centre of Muslim culture and economy. This step of Lord Curzon ignited furry among the Hindus who never liked the progress of the Muslims. In response to this, they went up to violence and launched the Swadeshi Movement; against the division of Bengal. The British, policemen and magistrates were killed in bomb blasts and attacks. The British were frightened by such activities of Hindus but the eyes of Muslims were opened due to this response and they started demanding for the Separate Electorate in the very next year after the partition of Bengal.

Meeting with Lord Minto: The Muslim Leaders had already decided to see Lord

Minto, and they met Lord Minto on 1st October 1906 at 11:00 am. The Muslim leaders welcomed Lord Minto with enthusiasm and stood in his honour when he entered the room. After the introduction, the delegation leader Sir Agha Khan presented his address in which he praised for British government and declared that the British had been looking after the interests of all races, religions and communities in India.

He then announced that the Muslims were a nation. He introduced the Muslims as the 'Mohammedan community' in his address. Sir Agha Khan reminded in his address that according to the census of 1901, the population of Indian Muslims was more than 62 million and that was 20 to 25 percent of the total figure. He reminded that the Muslims had a valuable political importance in the past. They also played a remarkable role and contributed to the sdefense of India as they served in the British army. He further explained that the Muslims had been ruling in India with the implementation of justice and fair dealings.

Demands by the Muslims: In short, we can say that the Simla Deputation was a remarkable step for Muslims in the political history of India. In this delegation, they demanded the security of their rights for the first time from the British. Their Demands were as follows.

1. System of electoral institutions in which the Muslims would have the right to choose their representatives in the constituencies. In other words, they demanded the right of a Separate Electorate. It means that the seats should be reserved for the Indian Muslims and the representatives must be elected through only Muslim voters. There were two reasons for these demands; first, the relations between the Muslims and Hindus were such that no Hindu could be the real representative of the Muslims at that time. The second reason was that no Muslim was able to be elected through the joint electorate system. There was fear of eruption of riots between the Hindus and Muslims in that situation.

In early 1906, Lord Morley said during the session of the British House of Common that it had become necessary to establish a legislative council in which the Indian representatives may be inducted through the electorate. Therefore, the Governor General of India would form a committee soon and it would develop the recommendation in this regard. The Muslims thought that in this case the constituencies would be created on the basis of areas and as a result, the Muslims would be unable to elect their representative. The Hindus will not vote for any Muslim leader but if any Muslim leader acquires the seat with the cooperation of Hindu voters, he would not be able to be a real representative of the Muslims. On the other hand, the Muslim voters will be very few in numbers as they were unable to qualify for the conditions of wealth and education which would be the criteria for voters.

2. Keeping in view the historical importance and political position of the Indian Muslims; the Muslims should be awarded more representation than their population. This was called weightage. This demand has also two reasons behind it; first, the Muslims had ownership of a larger portion of lands in India. Second, a large number of Muslims had been serving in the Indian Army.
3. The Muslims requested to restore their seats not only on the basis of their population but political value of their past also. It must be kept in mind that what was their political importance, one hundred years ago in India? It means that Muslims are a separate nation; they ruled for centuries in India and they played a vital role in the British army also. Therefore, it would be a sheer mistake to declare them as a minority; if they have to live like a minority, they should be granted weightage to maintain their individualism.
4. The Muslims also demanded the reservation of gazetted and non-gazetted seats for them in government institutions. At the beginning of the 19th century, the government changed its policy under which the Muslims were removed from the official jobs. Muslims remained backward in western education; however, in the last quarter of the 19th century, they had succeeded in getting some higher education but Hindus had occupied all the institutions by then. In 1906, very few Muslims were in the official posts.
5. They demanded the appointment of Muslim judges in high courts and chief court.
6. There was only one Muslim Subordinate Judge out of 42 and 13 Muslim Deputy Commissioners out of 75 from Bengal. Likewise in Bombay, there was only one Subordinate Judge belonging to the Muslim community out of 18. That was why, the Muslims demanded reservations for their seats.
7. The members of the delegation asked for the representation of Muslims in the Viceroy's Executive Council, too. In those days, there was no concept of 'one man one vote', as the voters were very less in numbers. The Muslims demanded an electoral college through which Muslim leaders, lawyers, traders and other professionals could be elected.
8. They concentrated that the seats should be reserved for Indian Muslims in the universities' senate and syndicates to grant them a share in administration.
9. It was demanded that financial assistant or funds should be granted for the establishment of an independent Muslim University in India.

Minto's Attitude: Lord Minto showed a pleasant attitude to the delegation and supported them emotionally and politically. He assured that he would make his efforts for the protection of Muslim's rights. Minto accepted the demand for a separate electorate for Muslims. All the demands made by the Muslims depended on the fact that Muslims were a separate nation. Lord Minto wanted to remove the Muslims' discomforts. In fact, this was the right time for the Indian Muslims to raise their voice. The British had focused on the constitutional reformations due to Hindu-Muslim's conflicts. The Muslims succeeded in proving that they were

unable to trust on Hindu majority. Moreover, their demand for a Separate Electorate indicates that the Muslims had decided to prove themselves as a nation on a political basis instead of a religious one; as they were not ready to be absorbed into the Hindu nationalism.

Their demand for a separate electorate actually was the political base of the two-nation theory. At last, the British government accepted them as a separate nation when they were awarded the right of a Separate Electorate in the upcoming reforms.

3.2 MUSLIM POLITICAL ACTIVISM (1906-1915)

The Indian Muslims participated in Indian Politics during this period. We discuss the salient features of Muslim political activism from 1906 to 1915 in the following lines.

ESTABLISHMENT OF MUSLIM LEAGUE:

The establishment of the Muslim League was not an abrupt sudden decision or idea. It was the need of Indian Muslims on the base of previous experiences. Before the formation of the Indian National Congress, the Indians had developed resentment towards the British as they had become politically aware due to the efforts of their native leaders. Surendra Nath Banerjee, an Indian civil officer, was terminated from the services due to a minor mistake. He then entered politics and established an 'Indian Association' in 1876 in Bengal. He (S.N Banerjee) also established an organization called 'Indian National Conference' in 1883 for the purpose of solving political issues. British Indian Association was established by Sir Syed Ahmad Khan in 1886 at Aligarh. The attitude of the government was different for the European and the Indian officers working as civil servants. This discriminatory attitude became the reason for to spread of political agitation in natives and the agitation converted into a national movement at last.

Allan Octavian Hume was a retired civil servant, who wanted to divert the agitation of Indians to the constitutional struggle. In this regard, he was working on the wish of Lord Dufferin (Governor General of India at that time). In the last week of December 1885, the Indian National Congress came into existence due to the struggle of A.O. Hume. The first session of the Congress was held in Bombay from 28th to 31st December 1885, with the approval of Viceroy Lord Dufferin. Womesh Chandra Banerjee presided over it and there were only two Muslim delegates out of seventy-two. Representation of only two Muslims in the party indicated that congress was a Hindu-dominant party right from its birth. The British had the credit of its formation and there were of course Hindu leaders who expressed their loyalty towards them.

This was the mutual understanding of Hindus and the British as the government showed an attitude of kindness towards the Hindus. As long as the

British were satisfied with Hindus' sincerity, they showed sympathy but when congress raised its demands for political changes, it was disliked by its pioneers, as Lord Dufferin declared it a 'microscopic minority' at the time of his retirement. Long before the establishment of Congress, Sir Syed Ahmad Khan had recommended Muslims not to take part in politics. He advised Muslims to acquire education and emphasized modern education. Sir Syed expressed his concerns at the establishment of Congress and the Muslims, true to his advice, remained far from the Congress as well as from politics till the end of the 19th century. However; with the beginning of the 20th century the situation began to change. Hindus' attitude towards the partition of Bengal was enough to open the eyes of the Muslims; they decided to take part in politics now. They gathered for the protection of their political rights. They met Minto at Simla in 1906, where they demanded the right of a Separate Electorate. During their stay at Simla, the Muslim leaders discussed the matter and shared their ideas to establish their own political platform. In 1900, a letter from Moulvi Mehdi Hassan was published in a newspaper in which he expressed that Sir Syed advised Muslims not to take part in politics but actually, he wanted to keep Muslims away from Indian National Congress. .....

Formation of Muslim League:

After the session of Simla Deputation, the Muslims thought that they should establish their own party; through which they could raise their voice to the government. Sir Agha Khan, Nawab Mohsin-ul-Mulk and other prominent Muslim leaders showed their interest in the establishment of an institute for this purpose. Syed Ameer Ali stressed establishing their separate political party. Nawab Saleem Ullah Khan was not present in Simla Deputation; however, he presented a scheme of "All India Muslim Confederacy" which aimed to control the impact of Congress on Muslims.

The 20th annual session of the Muhammadan Educational Conference was held on 30th December 1906 in Dhaka. Most of the Muslim leaders expressed their wish for the establishment of a separate Muslim political party. This was the historical political gathering of the Indian Muslims. It was the very right time for the Indian Muslims to establish their own party. At the end of the conference, in the same evening; a meeting was held under the president-ship of Nawab Wiqar-ul-Mulk. Mohsin-ul-Mulk and other prominent Muslim leaders showed their interest in the establishment of an institute for this purpose. Syed Ameer Ali stressed establishing their separate political party. Nawab Saleem Ullah Khan was not present in the Simla Deputation; however, he presented a scheme of 'All India Muslim Confederacy', with the aim of controlling the impacts of Congress on Muslims.

Aims of League:

All India Muslim League had the following three aims at the time of its emergence.

To promote the feelings of loyalty among the Indian Muslims towards the British Government and to remove misconceptions among Muslims regarding the British.

To protect and advance the political rights and interests of the Indian Muslims and present their needs and aspirations to the British in a respectful manner.

To protect the Indian Muslims from any feeling of hostility towards other communities without prejudice to the other above-mentioned objects of the League.

Some writers have the opinion that the Indian National Congress was now demanding autonomy; and at the same time, the British needed another party that could express complete devotion to them, so due to the efforts of the British "All India Muslim League" was formed. But famous historian, Dr. Ishtiaq Hussain Qureshi rejected the idea of this group of writers and expressed his views that of course, Congress was formed by the efforts of A.O. Hume. But contrarily, the creation of the Muslim League was a product of the compulsion of Indian Muslims to protect their political and economic rights. It was not formed on the encouragement of Lord Minto, as many writers claimed but the fact is that Muslims had decided long before. However, the League was also welcomed by the government as much as Congress.

Jinnah and League:

Jinnah Joined the All India Muslim League in March 1913 but before the year 1912, the General Secretary of the All India Muslim League Mr. Wazir Hassan, wrote a letter to Jinnah in which he invited him to attend the upcoming meeting of the AIML Council. Due to his expertise in constitutional and political matters, he was invited to attend the meeting, although he was not a member of the League but a well-respected Muslim Leader. Jinnah accepted the offer and attended the annual meeting of the All India Muslim League held in December 1912 and addressed it. In the following year (1913), he joined the All-India Muslim League but retained the membership of Congress. In April 1913, Jinnah left for England with Gokhale (a Hindu leader) where he founded the London Indian Association. Stanley Wolpert wrote in his famous book *Jinnah of Pakistan* that Gokhale stated that Jinnah 'has true stuff in him and that freedom from all sectarian prejudice which will make him the best ambassador of Hindu–Muslim Unity'. In fact, this was Jinnah who guided not only the Muslim League but the Muslim leaders also. He was the only superior leader who raised the true spirit of Indian Muslims.

He succeeded in bringing the Muslims and Hindus to one platform and was appreciated by every prominent leader of the subcontinent. He was awarded the title of 'Ambassador of Hindu Muslim Unity' by Mrs. Sarojini Naidu; former President of Indian National Congress. This is a matter of significance that Jinnah, the Ambassador of Hindu-Muslim Unity, gradually was completely disappointed

by the attitude of Hindus and their representative party-the Indian National Congress. He had been working for the unity of Indians for more than 30 years; however, in response to the Nehru Report, he separated his way from the Congress and decided to leave not only Indian politics but also India with a broken heart; he decided to settle down in London, permanently after the First Round Table Conference. But he returned to India in 1934 through the efforts of Allama Iqbal. He changed his attitude and now he decided to work for the sake of Indian Muslims instead of Hindu-Muslim Unity. He proved himself the sole spokesman of the Indian Muslims and finally succeeded in securing a separate Muslim State for the Muslims. His struggle in this regard will be discussed in the following chapters.

MINTO-MORLEY REFORMS (INDIAN COUNCILS ACT 1909):

After the War of Independence of 1857, the Prime Minister of the United Kingdom (U.K) Lord Palmerston (Viscount Palmerston) claimed through a bill that the current structure of the government of India was full of faults and defects. Therefore, the power should be transferred from the East India Company to the Crown. After thorough discussion, the bill was approved and the power was transferred from the East India Company to the British Crown. The Act was passed on 2 August 1858 by the Parliament of the United Kingdom and it was titled 'The Government of India Act 1858'. Now an exceptional post of Secretary of State for India was created through the cabinet. The Secretary of State for India was authorized about the matters of government and revenues of India. On November 1, 1858, Queen Victoria announced the official termination of the sepoy mutiny and proclaimed the formal opening of the British Raj through a Royal Proclamation, addressed by many as 'the Magna Carta of India'. The first ever constitutional structure for India was formulated under the 'Government of India Act 1861'. The same was also called the 'Indian Councils Act 1861', through which superior provisions for the Governor-General's Council and for local government were introduced. The same was also called the 'Indian Councils Act 1861'; through which superior provisions for the Governor-General's Council and for Local Government were introduced. After the War of Independence, the British started setting up a parliamentary form of government on the Indian soil.

It was provided that the Governor-General's Executive Council would contain five Ordinary Members; three of them would be those who must have served for ten years in India either under the Company or the Crown; and one of them would be a Barrister or Advocate having five years of experience. The Secretary of State for India reserved the power to appoint a Commander-in-Chief as an Extraordinary Member of the Executive Council. For legislative purposes, it was provided that the Governor General could nominate Additional Members to the Council. However, the nominated members would be from six to twelve; and half of these were to be non-officials. Although the Indians were included in the

Central Legislative Council in the matters of legislation, effective powers were reserved to the Governor-General.

The birth of the Indian National Congress took place in 1885 and the Congress had raised its voice for the expansion of Legislative Councils. The 'Indian Councils Act of 1861' could not satisfy both the Indians and the Congress as the Indians were not allowed to influence the government's decisions. The next reforms were brought under the Indian Councils Act 1892. The 'Indian Councils Act of 1892' was the result of a National Movement. At that time, when the 'Indian Councils Act 1861' was introduced, the people of India thought that the Indian members would influence the decisions of the Government. The Councils were to have the power to discuss the annual statement of revenue and expenditure, i.e., the Budget and to address Questions to the Executive. The 'Indian Councils Act 1892' provided that the Additional Members (non-official) should not be less than ten and more than sixteen in Central Legislative Councils. This number was from six to twelve in the previous Act. On the other hand, the representation of non-official in Provincial Legislative Councils was abolished now. Finally, this Act also proved disappointing for the Indians as the Council contained 24 members and out of them only five members were Indian.

The Indian Councils Act 1909, is known as Minto-Morley Reforms in history. Lord Morley was the Secretary of State for India' while Lord Minto was the 'Viceroy of India' at that time. According to their backgrounds, characters and applied work and experiences, Lord Morley and Lord Minto obviously were very dissimilar in respect of their nature and background but on the other hand, they had the same perspective in developing policies in the Indian context. In the summer of 1906, it was suggested to introduce some constitutional reforms in the second half of the same year, Lord Morley remained serious and gave special attention to the formulation of the next installment of constitutional reforms. He remained closer with Lord Minto (the Viceroy), and he, on Morley's part, constituted a committee to go into details and prepare a report. The report was ready till early 1907 and was sent to London in the same year on 19 March. It helped as the basis of the reforms which were implemented as the 'Indian Councils Act 1909'.

Election's Method:

The method of election was partly indirect and partly direct. Some members were to be elected through an election system and the remaining were nominated.

Additional Members:

The Act increased the strength of the Central and Provincial Councils; in centre, besides the Viceroy and his Executive Council, nearly 60 members were added to the Central Legislative Council (it was extension from 16 to 60). These

were named as additional members. Moreover, reforms were also brought for Provincial Councils and under this Act these Councils were enlarged up to a maximum of 30 and 50 in the smaller and larger provinces respectively.

Official and non-Official Members:

In the Provincial Councils, small non-official majorities were provided; however, at the Centre an official majority was retained like before. In Central Legislative Council (or Imperial Legislative Council), there were 37 official and 32 non-official members. Official Members included 9 ex-officio and 28 additional officio members. Out of 32 non-official members, 5 were nominated by the Government.

Secretary of State and Governor General:

Two Indians were nominated to the Council of the Secretary of State for Indian Affairs. The Governor General was empowered to nominate one Indian member to his Executive Council.

Members Power:

Members of the Council could raise Questions relating to administration and policy, but the Government had a permanent statutory majority in the house. The purpose of this majority was to limit the Indians' power. During the discussions, Questions were allowed but queries could be disallowed without any reason. Resolutions could be moved, but they had no binding force. This was, of course, not a power of members but indeed a step towards powers for the members.

Councils' Powers:

The Councils were still regarded as durbars rather than as parliaments. Morley told the House of Lords that "if it could be said that this chapter of reforms led directly or necessarily to the establishment of the parliamentary system in India, I for one would have nothing at all to do with it".

Muslims Benefits:

It was the first chance for the Muslims, in the history of British India; the most important change brought about by the Morley-Minto Reforms was the establishment of separate electorates. Their demand put forward through the Simla Deputation was a system of separate Muslim representation introduced in this Act. All Hindus and several British observers of the Indian scene argued that the creation of a communal electorate was an infringement of democratic principles.

Hindus' Reaction to the Act: The Hindu politicians and the Congress immediately started a movement of disapproval and obstruction. At the 1910 gathering the Congress condemned the provision of separate representation for the

Muslims and demanded the removal of such "anomalous restrictions between different sections of His Majesty's subjects in the matter of the franchise". From the session of 1910 to the passing of the 1935 Act, except for 1916 (Lucknow Pact) the Congress made it a routine to pass a resolution in its sessions in condemnation of a separate electorate.

Muslims' Reaction: It was a great pleasure for the Indian Muslims that they succeeded in their petition. That was their first enormous success after the establishment of All India Muslim League. This infused a new spirit among the Muslims of sub-continent. The Muslims had now come to understand and appreciate the insight of Sir Syed Ahmad Khan; they were going to become a nation in political way.

3.3 POLITICS OF COOPERATION AND ACCOMMODATION (1916-1929)

Mr. Jinnah joined the AIML in 1913 but he did not resign from the Congress. He remained a member of Congress from 1906 to 1920. All India Muslim League was much empowered when Jinnah joined it as he was a great leader. The political development from 1916 to 1929 is being discussed in the following sections.

LUCKNOW PACT:

Pact is a term which refers to a formal agreement between two (or more than two) countries or states. It also includes an agreement between any two or more groups or persons either to help each other or not to fight each other.

The Lucknow Pact (1916) is the most famous Pact decided between the two major parties of the subcontinent; the All India Muslim League (AIML) and the Indian National Congress (INC). Muhammad Ali Jinnah joined the League in 1913 and became the part of Muslim Political Party but he also decided not the leave the Congress. He wished to keep Hindus and the Muslim united in the subcontinent. He viewed that both communities should live together and struggle to get freedom from British. The Muslims were against British Government due to two reasons. First, due to reversal of the partition of Bengal (1911), second, in 1914, the First World War (FWW) had begun; due to war of Balkan, the British were against Turkey (the last one country with caliphate). As the gap between two nations (British and Muslims) was at its peak in those days and Jinnah was the political personality who wanted to keep them united. Muhammad Ali Jinnah then was an active participant of the Congress as well as the League. He joined League but not left Congress. AIML added the self-rule for India in 1913 in her objectives as Jinnah wished. This made Jinnah more popular and prominent among the Hindus and Muslims rather than the British.

Jinnah wished the freedom for the Indians to run their own country on one hand and on the other he wanted to protect Muslims' political and social rights. He tried to gain more and more political power for the masses of subcontinent to run their country. He believed that the objective of self-rule might be achieved in response to an agreement between the two foremost political parties in the British India.

The Congress came to conclusion that AIML was the sole representative political party of the Indian Muslims while the former could not claim for all the communities and minorities. Jinnah was able to establish that INC never presented all the communities of India, especially the Muslim community. He used the platform of AIML to interpret and vocalize the views of the Muslims. Jinnah became the president of the AIML only after three years of his joining the party. It raised the status of not only Mr. Jinnah as a political leader but League as a party.

Both parties had their sessions at Lucknow in 1916, in the last days of December; the All India Muslim League was led by Muhammad Ali Jinnah while the Maratha leader, Bal Gangadhar Tilak presided the Congress moot. Mr. Jinnah got success in convincing both the parties about the future of British India. Jinnah supported the point that the Hindus and Muslims must live in harmony and should struggle against the British Government to achieve self-government in India.

In his presidential address, M.A. Jinnah said:

'I may say a word as to the attitude of the Musalmans of India towards the Government. Our clear duty is to be loyal and respectful, without stooping to a cringing policy. We want no favours, and crave for no partial treatment. That is demoralizing to the community and injurious to the State. The Musalmans must learn to have self-respect; what we want is a healthy and fair impetus to be given to our aspirations and ideals as a community, and it is the most sacred duty of Government to respond to that claim. Towards the Hindus our attitude should be of good-will and brotherly feelings. Cooperation in the cause of our Motherland should be our guiding principle. India's real progress can only be achieved by a true understanding and harmonious relations between the two great sister communities. With regard to our own affairs, we can depend upon nobody but ourselves. We should infuse [a] greater spirit of solidarity into our society. We should remove the root causes and the evil effects of the process of disintegration. We should maintain a sustained loyalty to and cooperation with each other. We should sink personal differences and subordinate personal ambitions to the well-being of the community. We must recognise that no useful purpose is served in petty disputes and in forming party combinations. We should not lose the sympathy of our well-wishers in India and in England by creating a wrong impression that we, as a community, are out only for self-interest and self-gain. We must show by our words and deeds that we sincerely and earnestly desire a healthy National unity. For the rest, the seventy million of Musalmans need not fear.'

The committees of AIML and the Congress presented their constitutional schemes. After thorough discussion an agreement was settled between both parties; they accepted major demands of each other to pressurize the Government.

The most considerable attainments of this pact are as under.

1. It was the first time that Congress recognized that the Muslim League was a representative political body of the Indian Muslims.
2. Lucknow Pact is measured as an extraordinary milestone in the history of subcontinent as the Hindus accepted the distinction of Indian Muslims; however, the Muslims had already been granted the right of separate electorate in the Indian Councils Act 1909.
3. It was the first time that Muslims were granted separate electorates in the provincial and Imperial Legislative Council. Hindus agreed on the separate Muslim electorate.
4. Muslims were allowed to elect their own representatives through separate electorates; in this way, they had not been awarded the right to vote in the non-Muslim communities. However, an exception was made in the case of the special interests constituencies where Muslims had the right to caste the vote.
5. It was decided that a few seats shall be reserved for the Muslims in Hindu majority provinces; on the other hand, the Hindus shall be given safety in the Muslim majority provinces.
6. The Muslims were succeeded to reserve one third (33 percent) of seats in the Imperial Legislative Council, 50% seats in Punjab, 40% of total seats in Bengal, 33% seats in Bombay, 25% seats in the U.P. and 15% each for the Central Provinces and Madras assemblies.
7. It was decided that provincial autonomy would be awarded to the provinces while measures would be taken for the solutions for the communal issues.
8. Both of the parties agreed to the point that no resolution could be presented and passed in the assembly which harms the interests of the other community.
9. The Muslims who were in dread to lose Islamic and cultural identity were now guaranteed that no bill or a resolution presented by a non-official member would harm affect them.
10. They were guaranteed additional seats than their population ratio in the Center and minority provinces. However, they were deprived of some seats in Punjab and Bengal. The Muslim majority remained less effective in the coming days in these two provinces.

Lucknow Pact proved to be an important advancement towards the Hindu-Muslim unity. Both the parties unified together to brouhaha against the British for the sake of the self-government. The reform schemes were accepted by both the parties with open hearts at that time. Jinnah was the actual originator and architect of the Lucknow Pact. This settlement between the Congress and the League was the result of Jinnah's efforts; due to his endeavor, he was awarded the title of "the Ambassador of Hindu-Muslim Unity" by the well-known Indian poetess, Sarojini Naidu (famous as Nightingale of India). This Pact proved the peak of Hindu-Muslim association in the history of British India.

Khilafat Movement (1919-1924):

Background: Abdul Hamid II (1876–1909) was the Ottoman emperor who embarked on his Pan-Islamist program to protect the Ottoman Empire from Western attack. He sent an ambassador, Sayed Jamal Uddin Afghani, to India at the end of the 19th century. As a Caliph, the Ottoman king was nominally the supreme religious and political leader of all Muslims around the world. However, he never used the authority actually which he was supposed to possess.

During the British rule in subcontinent since 1857, the British-Turkey relation remained very well and both the powers remained allies. World War I started in 1914. The situation changed when the Turkey became the supporter of Germany against the British and its allies in this War. Germany was defeated by the British and its allies. The British decided to abolish the caliphate in Turkey and to distribute its territories. The Indian Muslims had a strong feeling of identity with the larger Islamic community and had great emotionally attachment with to the Muslims of Turkey as well as the Khilafat. Turkey was the organizer of Islamic government and the significant supremacy of the Muslim unity at that time. The Turkish emperor was called Khalifa and was considered the political and religious leader of the Muslims of all over the world. The Ottoman Caliphate was the last symbol of Muslim glory in the world. The Muslims desired to maintain the institution of Caliphate. They were well aware how the European powers conquered the Muslim lands one after another. The British and French army decided to control Turkey and they occupied Istanbul in 1918. In other words, the Ottoman Empire had collapsed now. Muslim leaders from India started a Movement to protest against this action. It was an expression of disapproval adjacent to the disgrace sanctions placed on the Caliph and Ottoman Empire after the First World War by the Treaty of Sevres.

In 1920, the terms of the 'Treaty of Serves' were announced (before the signatures) and it generated deep bitterness among the Muslims. They took it as a betrayal of the Muslims. In the month of March, a deputation of Muslim Leaders visited England to put their viewpoint before the British Government, but David Lloyd George (the Prime Minister) ignored them and the deputation returned with failure.

In the same year, 90 influential Muslims wrote to the Viceroy of India, Lord Chelmsford and suggested revising the terms of the agreement, otherwise, they declared that the Indian Muslims would start a non-cooperation movement against the government till the revision of the terms of the treaty.

Maulana Muhammad Ali and Maulana Shaukat Ali (famous as Ali Brothers) started a movement for the help of Turkish Muslims. The Muslims masses in India joined hand and took part in this magnificent movement and started protest in opposition to the British Government. This was called Khilafat Movement.

Objectives:

The objectives were as follows:

1. To maintain the Turkish Caliphate.
2. To protect the holy places of the Muslims.
3. To maintain the unity of the Ottoman Empire.

It was a Pan-Islamist but political protest campaign to influence the Government not to eliminate the Muslim Caliphate. The Khilafat Movement was a foremost Pan-Islamic movement and its major target was to save the Ottoman Empire.

The movement was not only supported by the Muslims of South Asia but was also supported by most of the prominent Hindu leaders of India. The well-known Hindu leader, Mohandas Karam Chand Gandhi connected the issue of Swaraj with the Khilafat issue. This association proved the cause of the association of Hindus with the Khilafat Movement. This movement became the first national popular movement against the British Government after the War of Independence.

All India Khilafat Committee:

Ali brothers succeeded to unite the prominent Muslim leaders of the subcontinent and formed the 'All India Khilafat Committee' on 20 March 1919 at Bombay. Maulana Hasrat Mohani, Hakim Ajmal Khan, Raees-ul-Muhajreen Barrister Jan Muhammad Junejo, Dr. Mukhtar Ahmed Ansari, Maulana Abul Kalam Azad and Sayed Ataullah Shah Bukhari were some of the members of Committee and the committee continued its work with enthusiasm. A large number of Muslim Ulema and Leaders worked to spread awareness among common people. 'All India Khilafat Conference' was called on 23 November 1919 in Delhi. It was a joint conference of Hindus and Muslims organised by the Khilafat Committee. The Khilafat Committee published Khilafat Manifesto in 1920. The Khilafat Committee in Bengal included Mohammad Akram Khan, Muniruzzaman Islamabad, Mujib-ur-Rahman Khan and Chittaranjan Das.

Non-cooperation Movement:

An alliance between Khilafat leaders and the Indian National Congress was established in 1920 once again after Lucknow Pact. It was the alliance during the popular movement and the biggest political parties of the subcontinent. Mr. Mohandas Karam Chand Gandhi and the Khilafat leaders promised each other to work and fight side by side for the sake of Khilafat and Swaraj. Members of Khilafat Movement were seeking to put pressure on the British; therefore, they also took membership in the Non-cooperation movement launched by Gandhi. Non-cooperation movement was a countrywide civil-disobedience movement. The use of British goods was prohibited to the Hindus and Muslims by their leaders. The

Indian Muslims supported Gandhi while the Congress ensured Hindu-Muslim unity during the struggle. The Non-cooperation movement remained very successful. Massive protests, strikes, goods boycotts and other acts of civil disobedience by the Hindus and the Muslims spread all over India in a peaceful way.

Muslim's Education:

Some leaders of Khilafat Movement including Dr. Ansari, Maulana Azad and Hakim Ajmal Khan also came personally close to Mr. Gandhi. Sheikh-ul-Hind Maulana Mahmud Hassan, Maulana Muhammad Ali Jauhar, Hakim Ajmal Khan, Dr. Mukhtar Ahmad Ansari, Abdul Majeed Khawja and Dr. Zakir Husain were the leaders who set up the Jamia Millia Islamia in Delhi at 1920. At the same time, they wanted to promote autonomous education and social development for Indian Muslims.

Reasons for Failure:

A tragic incident of the Khilafat Movement was the Hijrat Movement proposed by religious leaders belonging to Jamiat-al-Ulema-i-Hind and about 925 well-known Muslim Ulema signed up this fatwa. They declared India as *Dar-ul-Harb* (House of War). They stated that when a land is not safe for Islam or for Muslims, the Muslims have two options in this situation; the first is Jihad and the other is Hijrat. Some scholars are of the opinion that the idea of Hijrat was presented by Maulana Abul Kalam Azad.

From the province of Sindh and N.W.F.P, hundreds of families sold their properties, and migrated to Afghanistan. Only in the month of August, 18,000 Indian Muslims migrated to Afghanistan. Being a poor country, Afghanistan was powerless to welcome such a large mass of population. The Afghan leaders closed its borders. The Muslims came back from the Khyber Pass; most of them were injured and sick now due to long travelling.

In the month of August in 1921, countryside riots spread in coastal areas of Malabar. The Moplah peasants and farmers started insurgence against the Hindu landlords. The Hindu land-lord's had oppressive policies towards Moplah Muslims with the alliance with the British. During the battle with the British the Moplahs killed a number of Europeans. The British Government took action after this clash and killed almost four thousand Moplahs during the operation while many thousands were injured. This incident affected the Hindu Muslims relations and the Khilafat Movement.

An incident happened on 5 February 1922 in the town "Chauri Chaura" situated at Gorakhpur district. The Non-cooperation movement of Gandhi was at its peak. A large number of protesters clashed with police during the protest. Police opened fire on demonstrators. The protestors attacked the police in retalliation and set a police station on fire; in response to it, three civilians and almost 22 policemen

were burnt alive. Mr. Gandhi was severely against any such violence, so he availed the opportunity and announced to end of his Non-cooperation Movement in India on 12 February 1922. Gandhi had been using this movement towards Swaraj; now, he disclaimed his buttress for the Muslims after the incident of Chauri Chaura. He claimed that now the movement is going towards violence and this would be harmful for the Indians. The Non-cooperation Movement and Khilafat Movement were connected to each other; therefore, the Khilafat Movement was affected badly due to this sudden closing decision of Mr. Gandhi.

Sultan Abdul Majeed II was the last Muslim Khalifa from 18 November 1922 to 3 March 1924. The British Government in India came to action and the leaders of Khilafat Movement were imprisoned including Gandhi. Ali's brothers were tried at Khaliqdeena Hall of Karachi and were imprisoned; therefore, the movement was left leaderless. It gave an acute blow to this Movement.

End of the Movement:

The movement was at the ending point till March 1924 because the Turks succeeded in gathering under Mustafa Kamal; they established their new regime in Turkey. Mustafa Kamal announced an end to the Khilafat. He declared Turkey as a republican state. Soon the enthusiasm of the Indian people died down; the result was that no traces but only the name remained. Of course, the Khilafat Movement was unsuccessful to attain its goals; however, it was successful to spread political awareness among the large masses of Indian Muslims. During this Movement, the Muslims' representatives carried out communication with well-known leaders of the Muslims countries as well.

No doubt, the Khilafat Movement proved as an impetus for the struggle of Pakistan. The Indian Muslims learnt not to trust both the British and the Hindus. Now they started looking forward to winning their own state to ensure their protection. Ishtiaq Hussain Qureshi reviewed the Khilafat Movement in this way:

"Though the Khilafat Movement achieved no ostensible success, yet it was of considerable value as an instrument of creating public consciousness in the Muslim masses. It provided a broad -based leadership and taught the techniques of organizing a mass movement to the Muslims. These proved great assets in the struggle for Pakistan."

DELHI MUSLIM PROPOSALS:

At the end of Khilafat Movement, the Congress was going to lose its influence in the Indian Legislative Assembly. Therefore, the Congress president of that time, Srinivasa Iyengar; approached Mr. Jinnah to cooperate for upcoming Indian constitutional proposals. He was looking for cooperation between two parties, the All India Muslim League and the Indian National Congress like the Lucknow Pact.

Mr. Jinnah, who had also remained too positive for Hindu-Muslim relations in his entire political career, responded well.

Quaid-i-Azam Muhammad Ali Jinnah believed that the Indian Muslims could not make progress unless the sectarian atmosphere improved. The autonomous government of India will only be possible when both the Hindus and the Muslims live together. Jinnah, in fact, was the ambassador of Hindu-Muslim unity. In this context, the Lucknow Pact was the result of Jinnah's real efforts. Although there were disturbances in Hindus-Muslims' relations after 1921-22 but Jinnah had been trying to maintain this unity. In the annual meeting of Muslim League held in 1924 at Lahore, the bitterness of Hindu-Muslim relations was expressed through a resolution and the importance of Hindu-Muslim unity was emphasized.

Jinnah also had his personal opinion that it was necessary to promote unity among the Indians; his view was that without unity, the political rights of the Indian people could not be secured and the freedom of India was impossible. The Hindus had accepted the right of a separate electorate for the Muslims in 1916 during Lucknow Pact; however, most of the Hindus considered that the separate electorate would be an obstacles in the national unity and solidarity. Jinnah also had the opinion that the Muslims can't be neglected by the Hindu majority as in this case the system of democracy in India will fail. He thought that Muslims may withdraw from the claim of a separate electorate if Congress accepted the other demands of Muslims. The same statements were repeated in the annual session of the League in 1925 at Aligarh. On 20 March 1927 Jinnah called a conference of Muslims leaders in Delhi. Thirty prominent Muslim leaders gathered in the meeting in Delhi, and Jinnah presided over the meeting.

Maulana Muhammad Ail Jauhar, Sir Ali Imam, Dr. Mukhtar Ahmed Ansari, Mufti Shafi and other prominent leaders joined the session. The Muslim leaders had the judgment that the superior constitutional conflict between the Congress and the League was a matter of electorate. Due to insecurity within the Hindu Majority, the Muslim League was demanding the separate electorate to protect the Muslim's rights while Congress had the slogan of a Joint Electorate; with the claim that joint electorate would guarantee the Indian nationalism. The Muslim Leaders and Jinnah realized the fact that the common agenda with Congress would be only possible when the League eliminated her demand for a Separate Electorate.

After a lengthy debate and arguments of almost seven hours, the Muslim Leaders and Jinnah gathered on the point that they would contract an agreement with the Congress on the basis of certain proposals; the concluded document came to be known as Delhi Muslim Proposals. At the end of the session, the Muslim Leaders and Jinnah confirmed that they were ready to withdraw the demand for Separate Electorates if the Congress would be ready to accept the following

proposals or demands. These demands are known in history as Delhi Proposals or Delhi Muslim Proposals. The proposals were:

a. Sindh should be separated from the Bombay Presidency and awarded the status of a separate or independent province.
b. Reforms should be introduced in the North-West Frontier Province and in Baluchistan on the same footing as in any other province in India.
c. The proportion of reservation of seats would be according to the population of different communities in the Punjab and Bengal.
d. Muslims should be given 1/3rd (33 %) representation in the Central Legislature.
e. Weightage for Hindu minorities in Muslim majority provinces should be equal to the weightage given to Muslims in the Hindu majority provinces.

According to the decision of the session, the Muslims decided to withdraw from the demand of a separate electorate if the Hindus and the Congress accepted the above mentioned five proposals. The Muslims had already been shown the flexibility in the Lucknow Pact and once again they were ready to repeat it. It was perhaps the first chance that the Muslims agreed to accept a joint electorate for themselves. It was also made clear that Hindus would be awarded facilities by the Muslims in Sindh, NWFP and Bengal as same as the Muslims of minority provinces by the Hindus.

After three days, the Hindu members of central legislative assembly met in Delhi on 23 March 1927. They presented the following proposals in response to Delhi Muslim Proposals.

1. The system of joint electorate should be adopted for all legislative /constitutional bodies all over India.
2. Seats should be distributed according to population.
3. The safeguard of religious and semi-religious customs should be arranged by introducing special clauses in the constitution.
4. The separation of Sindh from Bombay should be delayed at this stage.

The Congress proposals were presented with the gap of three days; it showed that there was a visible disagreement between Muslim League and Congress. Though Muslim League had sacrificed its biggest demand of Separate Electorate yet congress showed no regard or flexibility. Another sincere effort by Jinnah was discouraged by Congress which increased communal rift between Hindus and Muslims.

3.4 THE PARTING OF THE WAYS: IQBAL AND SEARCH FOR ALTERNATIVES (1930-1939)

Nehru rejected the rights of Indian Muslims in his report in 1928. In the following year, Mr. Jinnah presented his famous 14 points in 1929. Allama Iqbal

presented his address in 1930 which was famous as Khutba-e Allahabad.

Although the Muslims demand in fourteen points were valid and these were right demands for the future of the Indian Muslims. However, these were not accepted by the Congress while the Nehru Report was not suitable for the Indian Muslims as well as not accepted by the Muslim leaders. It overall changed the political climate of united India.

It was one of the demands of Mr. Jinnah that the Round Table Conference be held in which the issues between the Muslims and the Hindus should be resolved. Jinnah wanted to make a final agreement with the Congress and the British.

Jinnah suggested holding a round table conference consisting of 15 members but it was rejected. The British called three round table conferences in London in 1930, 1931 and 1932, in which all the Indian leaders were invited to discuss and solve the issues. All the conferences could not be proved as fruitful as it was desired.

The Gandhi-Irvin Pact was signed on 4 March 1931. It was between the first and the second Round Table Conference. It was the pact between the Viceroy Lord Irwin and Mr. Mahatma Gandhi. One of the freedom fighter on India, Bhagat Singh was hanged on 23 March 1931 at Central jail Lahore who was 23 years old at that time. The Indians objected on Gandhi's act that he talked with Irvin but did not discuss to plea for forgiving Bhagat Singh. On 24 March, the Indian Muslims, Hindus and Sikhs marched in Lahore to salute Bhagat Singh and during this march Maulana Zafar Ali Khan presented a tribute to Bhagat Singh by reading a poem.

After the failure of three round table conferences, the Communal Award was announced on 16 August 1932. It was announced by Ramsay MacDonald in which the right of separate electorate was awarded to the Sikhs and Europeans like the Muslims.

The British gave a constitutional framework to India in 1935 as 'The Government of India Act 1935'. According to the Act a bicameral legislature was introduced. The upper house was called the Council of State, having 250 members while the lower house was called as House of Assembly with 375 members. 'The Council of the Secretary of State' for India was abolished in this Act. To resolve the differences between the centre and provinces a federal court was set up under the Government of India Act 1935.

Moreover, a measure of autonomy was introduced under the provincial part of the Act. Except in the cases of 'special responsibility' the Governor was to act on the advice of the Chief Minister. Six Indian provinces out of eleven were awarded the bicameral legislature; out of which only Bengal was the province of Muslim majority. The federal part of this Act was rejected by all the political parties including the Muslim League, the Congress and the Chamber of Princes.

However, only the provincial portion was acted upon and that is why only provincial elections were held in 1937. In its response, the Congress formed the government in eight provinces out of eleven. The All India Muslim League was unable to form its government even in a single province. The Congress resigned from the government in 1939 when the Second World War started. The Muslims celebrated the day of deliverance on 22 December 1939 on the recommendation of Mr. Jinnah.

3.5 JINNAH AND THE DEMAND FOR A SEPARATE STATE (1940- 1945).

We have discussed that the elections to the Provincial assemblies were held in 1937; in these elections, the AIML could not perform well even in the Muslim majority provinces. The Congress rule was very painful for the Indian Muslims. That is why when the Congress Ministries resigned from the government, the Muslims celebrated the 'Day of Deliverance' on directions of Mr. Jinnah on 22 December 22, 1939. Jinnah thought that there was no chance for the Muslims to easily live in India without the awarding of a guarantee of their rights.

Lahore Resolution:

On 23 March 1940, the Chief Minister of Bengal, Mr. A. K. Fazul Haq, presented the famous Lahore Resolution. The Lahore Resolution consisted of five paragraphs while each paragraph was one sentence long. Although, the wording was not graceful; however, it delivered a clear message.

The situation and environment beneath which the Lahore Resolution 1940 was presented and passed need to be noted. In the province of Punjab, the Muslim Leagues had directly no government; however, a government of the Unionist Party which apparently represented the AIML. Sir Sikander Hayat Khan was the prime minister of Punjab (at that time the Chief Minister was appointed as prime minister). Sir Sikander had his own scheme for partition, identifying seven Muslim zones on the basis of autonomy instead of sovereignty. He was in favour of modification of the Lahore Resolution, which apart from the account of Durga Das, is clear also from his afterward statements and as a result. When the Session of Muslim League Session was scheduled, Lahore was not prepared to host such a large assembly administratively.

Ashique Husain Batalvi was one of the eye-witnessed of the Lahore Resolution. The dedication of the citizens made up for the shortage of the preparations, but after that came the Khaksars' demonstration. As a result, the police brutality on 19 March 1940, just a few days before the Lahore Resolution was violated the environment of Lahore. A meeting was held at Minto Park Lahore and Nawab Shahnawaz Mamdot, Mian Amiruddin Ahmad, Mian Bashir Ahmad

and Mian Ferozuddiin decided that the All India Muslim League Session had to be postponed. However, Nazeer Ahmad Mahmud Advocate (who was later elevated to the bench) argued against its postponement. These Muslim leaders went to meat Sir Sikander Hayat, Nazeer Ahmad Mahmud also argued so convincingly against postponement and it was decided to go conduct the session.

When Quaid-i-Azam Muhammad Ali Jinnah reached Lahore, he refused to be taken out in a march, and went directly from the railway station Lahore to the Mayo Hospital Lahore, where the wounded Khaksars were under-treatment. It was the vision of Jinnah that he went up to each of them separately inquiring about their treatment and this gesture compacted the political temperature of Lahore.

The All India Muslim League Session was held according to the plan. On 21 March 1040, the "Subjects Committee" of the All-India Muslim League held its open session. The Chairman of the "Reception Committee", Nawab Shahnawaz Khan Mamdot presented his welcome address. Ashique Husain Batalvi described the reaction of the public during this session.

The people were listening peacefully and silently; towards the end, he mentioned the crumbling situation of the Badshahi Mosque. He had spoken the concern that the historical gift of Aurangzeb Alamgir the Great would be damaged. Then he mentioned the efforts of Sir Sikander Hayat towards the restoration of the Badshahi Mosque. As soon as Sir Sikander's name was mentioned in the speech, from one end of the ground to the other corner, there was an outcry. All of a sudden, from all four (4) corners the voices could be heard shouting; "We will not listen. Don't take Sir Sikander's name, sit down, shame… shame!" Nawab Shahnawaz Khan Mamdot standing in a confusion and troubled manner was witnessing all these protests. However, when the protests became louder, he silently resumed his seat. Sir Sikander Hayat was himself seated behind Nawab Shahnawaz. When Sir Sikander saw with his own eyes; the grief and anger of the people, then he got up and left through the back entrance of the tent.

During the Second World War, the British needed anti Congress parties but far more than the All India Muslim League, they needed the Unionist Party of Punjab which was extending un-conditional co-operation towards the British. The AIML observed a Day of Deliverance on 22 December 1939 on the resignation of the ministries of the Indian National Congress on the outbreak of the War. In the last stages of the World War-I when the Britain desperately required Indian co-operation, Mr. Jinnah and Mr. Tilak made co-operation conditional on the grant of Royal Commissions to also Indian soldiers. Mahatma Gandhi had frustrated them by offering un-conditional support.

At this time, during the World War-II, the same Gandhi offered resistance which made Jinnah suspicious of Gandhi's motives. Mr. Jinnah and the AIML were

willing to offer support, but not un-conditional support. During the World War-II, the Muslim League had a difficult task of keeping the same distance from the Indian National Congress and the Unionist Party. Under these conditions, the selection of Lahore as a spot had been a challenge, but their will power won by the unexpected reaction of the public in Lahore.

One more big achievement of the Lahore Resolution was that the All India Muslim League had neglected all efforts to secure the rights on the basis of being a marginalized community. A minority is subject to the law of the land but on the other hand, a nation is equal to other nations regardless of the population or the territory being less or more. It was the constitutional solution of being a marginalized community. During the House of Commons' debates, Sir Winston Churchill would declare:

Certainly, it is sure that more people have lost their lives or have been wounded in India by violence since the Interim Government under Mr. Nehru was installed in office four months ago by the Viceroy, than in the previous ninety years……the word "minority" has no relevance or sense when applied to masses of human beings numbered in many scores of millions.

This justification would come later when the WW-II had ended, but Churchill's speech fulfilled two points: firstly it upheld the choice of the Indian Muslims to claim their rights as a nation and, secondly, it showed that the Partition was preceded by bloodshed, and not succeeded by aggression, as recent critics of the Pakistan movement have started saying.

The Lahore Resolution was written and prepared by Sir Zafarullah Khan and was presented by A. K. Fazlul Huq at the three day general session of the All India Muslim League. The Session started on 22 March; the Resolution was presented on 23 March while it was approved on 24 March. However, we celebrate Pakistan Day on 23rd March because the Muslims were happy to listen to this resolution and everyone believed that it would be passed on the next day.

In general, the resolution demanded a separate independent region, which was to be formed by grouping the states consisting of the Muslim majority. There was no demand for Pakistan or for a single state but the states. The session of the Muslim League was the first time when Mr. Jinnah came ahead as a leader who wished the separate states to have Muslim majorities after realizing the basic differences in the beliefs of the Hindus and the Muslims. Otherwise, previously he was known as an 'ambassador of Hindu-Muslim unity' in South Asia.

The Lahore Resolution played an important and vital role in the struggle for freedom of the sub-continent in the coming days. The passing of the Lahore resolution was one of the events of the highest importance. After passing the Resolution the Muslims were able to gain Pakistan within seven years.

Controversies

The word 'Pakistan' was first time used by Chaudhary Rehmat Ali in his pamphlet 'Now or Never', which was delivered during the third Round Table conference. He discussed his opinion with Mr. Jinnah in London when they met; Mr. Jinnah rejected his idea of 'Pakistan' as the scheme for the creation of Pakistan presented by him was not practicable. Moreover, the name 'Pakistan' was not used in the Lahore Resolution and the official name of the resolution was the Lahore Resolution. It was the attitude of Hindus and their newspapers including *Bande Matram, Partap, Milap, Tribune*, etc., who incongruously coined the name Pakistan Resolution. Hindus were making a joke about the Muslims while the idea was valued by the Muslim masses and the Resolution was further projected as 'Pakistan Resolution'. Secondly, the Lahore Resolution was passed on 24 March but the Government and the people of Pakistan celebrate 23 March as a national day in Pakistan but it is not accurate. The actual day when the resolution was passed was 24 March 1940. The resolution was only presented on 23rd March. Lastly, the word "states" and not "state" was mentioned in the Lahore Resolution. It seems that the authors of the Resolution were foreseeing separate states in the north-western and eastern zones of India. In 1941, a Resolution was passed at Madras session of the Muslim League stated, 'Everyone should clearly understand that we are striving for one independent and sovereign Muslim State.' In all the speeches that Quaid delivered, he also used the word 'an independent homeland' or 'an independent Muslim state' but it was in response to the Hindus who were frightened by the word Pakistan and Jinnah took advantage to this opportunity.

Hindu Reaction

The Hindus' reaction was of course, speedy, bitter, and hateful. They called that the demand of the Pakistan is "anti-national." They characterized it as "vivisection; above all, they denounced it as imperialist – inspired to obstruct India's march to freedom." They also failed to take aware of the reality that a hundred million Muslims were now extremely alert to their distinct nationhood and were ready to venture everything to actualize their self-perceived fortune, the creation of an independent Muslim state in the sub-continent.

British Reaction

The British were uniformly aggressive to the Muslims' demand for at least two important reasons. First, they had long measured themselves as the designer of the unity of India and an Indian nation. Secondly, they had long regarded the super-imposed harmony under tax Britannica as their supreme success and permanent contribution to history. The demand for Pakistan threatened to undo these reputed achievements on which the British had wide prided. However, despite the Hindu

criticism and the British alarm, the course of Muslim, certainly Indian, politics had tilted towards the creation of Pakistan.

Cripps Mission

A few the passing of the Lahore Resolution, a supportive statement came from the Viceroy, Lord Linlithgow, in which he clearly stated on 8 August 1940 that the British Government could not contemplate the transfer of her present responsibilities for peace and welfare of India to any system of government whose authority is in a straight line denied by great and influential elements in India's national life. The British Government recognized the authenticity in the demand for Pakistan, indirectly in the suggestions, after the 2nd World War, about the transfer of power which Sir Stafford Cripps brought to India in 1942. Indian National Congress and the All India Muslim League both rejected these proposals due to various reasons. The principles of secession of Muslim India as a separate dominion were, however, conceded in these proposals. After the failure of this mission, a prominent Congress leader, C. Rajgopal Achaaria, suggested a formula for a separate Muslim state in the working committee of the Congress, which was rejected at that time; however, later on, in 1944, it formed the basis of the Jinnah-Gandhi talks.

Quit India Movement (1942)

The Congress decided to start the 'Quit India Movement' and the Hindu leaders demanded that the British immediately withdraw from India. Mr. Mahatma Gandhi advised his people to 'do or die' to achieve this aim. The movement was termed an "open rebellion" against the British Government in India. In response to this movement, 940 people were killed within a period of 4 months and the state property worth rupees one crore and thirty five lakhs was destroyed during this movement. In response to the Congress demand of Quit India, the Muslim League demanded 'Divide and Quit.' The Muslim leaders had the demand to divide India first and then leave it. The League remained distant from the Movement since it was aimed as much against Muslims as well as against the British.

Simla Conference (1945)

The Viceroy called a conference at Simla known as the First Simla Conference, where the formation of an Executive Council was discussed. The Congress had claimed that it represented all the communities in India and in this way, Congress could nominate Muslim members of the new Council. Jinnah and the Muslim League did not accept this claim of Congress and stated that the Muslim League was the sole representative party of the Indian Muslims. Therefore, only the Muslim League had the right to nominate Muslim members to the Executive Council.

Muslim League guaranteed the formation of a separate homeland for Indian Muslims, while the Wavell Plan envisioned a united India. When the question of

representation of different religious groups on the Executive Council came in discussion, a deadlock occurred. All India Muslim League claimed that no other political party had the right to nominate Muslim members for the Executive Council.

Congress did not agree to this claim of the League. The Unionist Party in Punjab was also pressing for representation on the Executive Council. Lord Wavell requested the two parties to send him a list giving the names of the members of their parties who could be included in the proposed Executive Council. Congress immediately provided a list of its members which also comprised names of two Muslims. Muslim League did not provide the list and insisted that Muslim members of the proposed Executive Council should be chosen only from the Muslim League. On 14 July 1945, Lord Wavell (Viceroy) proclaimed that the Simla Conference had failed and that efforts to bring Hindus and Muslims together had proved fruitless. One of the reasons for the failure was that Lord Wavell wanted to appoint a Muslim leader from the platform of Congress.

3.6 MUSLIM'S POLITICAL MOBILIZATION AND JINNAH'S STRUGGLE FOR THE CREATION OF PAKISTAN (1945-1947).

After the failure of the Simla Conference, after a few months, the Government announced to hold general elections in December 1945. After the elections, the British sent a mission in 1946 called the Cabinet Mission Plan. After the failure of the Cabinet Mission Plan, the 3rd June Plan was presented. The Indian Independence Act was approved in July 1947. Now we discuss the political development in detail in the following lines.

General Elections (1945-46)

The Viceroy Lord Wavell announced on 19 September 1945 that the elections to the federal as well as the provincial assemblies would be held in December 1945 and January 1946 respectively. This was further announced that an executive council would be formed and a constitution-making body would be assembled after these elections.

Although the Government of India Act 1935 had proposed an all India federation, it could not take place as the government held that the Princely states were not willing to join it. Therefore, rather than choosing 375 members, just 102 elective seats were to be filled. Consequently, the elections to the central assembly were held under the terms of the Government of India Act 1919.

The General elections in British India were held in December 1945 to elect members of the Central Legislative Assembly and the Council of State. The Congress emerged as the largest party and won 57 of the 102 elected seats. The All India Muslim League won all Muslim constituencies and these were 32, but failed to win any other seats. Of the 13 remaining seats, 8 were of the Europeans, 3 to independents, and 2 to the Akali candidates

in the Sikh constituencies of Punjab. This election was attached to the provincial one in January 1946 and proved to be a tactical victory for Jinnah and the partitionists. Even though Congress won, the League had united the Muslim vote and as such it achieved the negotiating power to look for a separate Muslim homeland as it had become clear that a united India would prove extremely unsound. The elected members later formed the Constituent Assembly of India.

These were the final general elections in British India; subsequent elections were held in 1951 in India but in 1970 in Pakistan.

Cabinet Mission (1946)

The Cabinet Mission Plan was a proposal by Sir Stafford Cripps and represented Britain's very last and final attempt to transfer the power it retained over India as a single union. The British wanted to keep the India united. As we have discussed in the upper lines the mission was sent by the British Government with the following three members of the British cabinet.

1. Sir A.V. Alexander (President of the Board of Trade,),
2. Sir Pethick Lawrence (First Lord of Admiralty.) and
3. Sir Stafford Cripps (Secretary of State for India).

All of the members of the mission were the part of British Cabinet; therefore, it was called the Cabinet Mission Plan.

In the month of September 1945, in Britain, the new government of the Liberal Party was elected and it expressed its objective to construct a constituent assembly for united India; the constituent assembly was meant to frame the constitution for India. The Cabinet Mission was sent to India in March 1946 to perform this task. The Mission had to deal with a main obstacle; the two major political parties included the Indian National Congress and the Muslim League, but both had deep differences over India's future. The Muslim League had the target of achieving a separate sovereign state of 'Pakistan' consisting of the Muslim majority provinces of India. On the other hand, the Congress desired to keep the India united. The Mission tried to negotiate an agreement between the Congress and the Muslim League but utterly failed. Finally, the Mission came out with its personal suggestions known as the Cabinet Mission Plan.

Actually, the Plan was a declaration on 16 May 1946 made by the Cabinet Mission and the Viceroy, Lord Wavell. This Plan included proposals regarding the future constitution of India if the political parties of the sub-continent and the representatives did not come to an agreement on the constitution.

The cabinet mission put forward a three-tier federal form of government for united India in which the central or federal government would be limited to power over defense, foreign relations, currency and communication; other significant

residuary powers would be handed over to the provinces. This plan also prescribed the regions or zones that would be created under these proposals; north-west Bengal and Assam would be joined to form an area or union with an insignificant or slim Muslim majority and in the north-west, the provinces of the Punjab, Sindh, N.W.F.P., and Baluchistan would be grouped for a clear Muslim majority while the rest of the India would be a third zone, having a clear Hindu majority. The estimation of borders of a Muslim Majority Zone (present day Pakistan) was clear from the demarcation of the zones. The Cabinet Mission Plan also recommended the right toveto on legislation by a group of people who saw their interests harmfully affected. Moreover, the Mission proposed that an interim government was about to be formed.

The 3rd June Plan (1947)

After the failure of the Simla Conference and the Cabinet Mission Plan, the British presented another plan for the partition of India. The plan was presented on 3rd June 1947 and due to its date; it is called the '3rd June Plan'.

In consultation with the British Government, The 3rd June Plan for the partition of India was prepared by Lord Louis Mountbatten commonly known as Mountbatten, the last Viceroy of India. The foundation of the Plan was the principle that the transfer of power should take place according to the desires of the Indian citizens. It granted the right to determination to the wishes of the common people regarding the structuring of their constitution by:

(a) The existing Constituent Assembly **OR**
(b) A new and separate Constituent Assembly consisting of the representatives of those areas which decide not to participate in the existing Constituent Assembly.

It was decided by the British Government that India would be divided and the Plan would be executed within one year, i.e., till 3 June 1948. According to the Plan, the members of the provincial legislatures from the provinces of Punjab and Bengal had to make a decision on the matter of partition and as soon as the choice concerning partition had been taken, separate Boundary Commissions would be founded which would demark the boundaries of two parts of the provinces. It was decided that in the N.W.F Province, a referendum would be held to discover the desires of the people. For the province of Sindh, it was decided that the Indian members of the Legislative Assembly would make their own decisions. Quaid-e-Azam said during his transmitted announcement that the plan did not meet, in some respects our point of view. However, Mr. Jinnah expressed his satisfaction with some of the affairs dealt with within the Plan. In fact, Quaid-e-Azam had not fully agreed to the Plan but he had no option but to accept it as it was the time for him to take a final decision to create Pakistan or not. According to Lieutenant Colonel Ilahi

Bakhsh, the doctor of medicine, who was attending to Mr. Jinnah during his last illness; his health had been declining with the passing of each day and Jinnah kept his illness secret from the world even to his close relatives. According to Ayesha Jalal a great Indian scholar, Jinnah was the sole spokesman of the Muslims of South Asia at that time. Jinnah did not want to lose the chance to create Pakistan.

Indian Independence Act (1947)

After the Plan of 3rd June, a bill was introduced in the House of Commons on 4 July 1947 to provide independence to the India. The bill was passed on July 15, 1947, by the lower house of the British Parliament. On the very next day on 16 July 1947, the bill was passed by the House of Lords (upper house of the British Parliament). The bill received the Royal approval on 18 July 1947. It provided that 'from the fifteenth day of August, nineteen hundred and forty-seven, two independent dominions shall be set up in India, to be known respectively as India and Pakistan'.

The Act provided that for each new state, there would be a Governor General. The Act also provided permission for the Government of India Act 1935 will be adopted by both dominions to run the matters of states till the preparation of their own constitutions by their own constituent assemblies.

First Constituent Assembly of Pakistan

Lord Mountbatten wanted to be the Governor General of Pakistan and India. The Congress leaders accepted him with open arms; however, Mr. Jinnah had the opinion that the appointment of Mountbatten as the Governor General of Pakistan after partition would be a question mark on the independence of the newly established State. Father of the nation, Quaid-e-Azam Mohammad Ali Jinnah reached Karachi on 7 August 1947. On 11 August 1947, he addressed the Constituent Assembly of Pakistan as its first Governor General. It was a matter of concern for the nation that his speech of 11th August 1947 was censored and not broadcast to the nation properly. However, it was published it Dawn newspaper.

Quaid-e-Azam Muhammad Ali Jinnah advised the assembly to perform two main responsibilities; the first was to frame the constitution of Pakistan for the future and the second was to act as a Federal Legislature of Pakistan. In simple words, the first parliament house of the country had dual responsibilities of the Constituent Assembly and the Legislature Assembly. When the next Governor General of Pakistan Malik Ghulam Muhammad dismissed or dissolved the first assembly saying that the assembly could not frame the constitution of Pakistan after passing of several years; Maulvi Tamizuddin Khan (M.T. Khan) consulted the high court and won the case on the basis that the assembly had failed to frame the constitution but it performed work as a legislative assembly.

Radcliffe Award

Under the Indian Independence Act (1947), the Boundary Commissions were appointed and they submitted their report. The report was submitted to Sir Cyril Radcliffe. He was nominated by Lord Mountbatten as chairman of both boundary commissions for the partition of India. Cyril Radcliffe was a retired judge in Britain and had never seen India before. He declared the decision regarding the boundaries of India and Pakistan on 17 August 1947 two days after the creation of Pakistan. His announcement regarding the boundaries was called the Radcliffe Award.

On 30 June 1947, the Boundary Commission of Punjab was constituted under the chairmanship of Lord Cyril Radcliffe. Justice Din Mohammad and Justice Mohammad Munir were on behalf of the Muslim League. Justice Mehr Chand Mahajan and Justice Teja Singh were on behalf of Congress.

The Bengal Boundary Commission consisted of Justice Abu Saleh Mohammad Akram and Justice S.A. Rahman representing the Muslim League and Justice C.C. Biswas and Justice B. K. Mukerji representing the Congress.

The Commission worked from 21 July 1947 to 30 July 1947 and produced the Award in which the Muslim majority areas including Batala, Ferozepur, Gurdaspur, Jullundhar, and Zira were given to India. Actually, all the representative members of Congress and Muslim Leagues were unable to decide while all the decisions were made by Sir Radcliffe on the directions of Lord Mountbatten. Quaid-e-Azam declared that it was an unjust, incomprehensible and even perverse Award. Jinnah further said that as he had agreed to abide by it, it was binding on 'us'.

Transfer of Power

The British decided to transfer power to the Indians on 15 August 1947. On the midnight of 14th and 15th August 1947, the partition of India was announced from All India Radio, Lahore. Mr. Agha Mohammad Baqir declared this historic announcement. The ceremony of the transfer of power took place in Karachi. Quaid-e-Azam Mohammad Ali Jinnah and Lord Mountbatten addressed the first Constituent Assembly of Pakistan. The next day on 15 August 1947, Quaid-e-Azam Mohammad Ali Jinnah took the oath of the first Governor General of Pakistan while Lord Mountbatten was sworn in as the Governor General of India. Mr. Liaquat Ali Khan was appointed the first Prime Minister of Pakistan. Pakistan celebrated her first birthday on 15 August 1948.

SELF-ASSESSMENT QUESTIONS:

1. How did Hindi the Urdu Controversy take two nations of South Asia away from each other?
2. Highlight the Language issue between the Hindus and the Muslims in South Asia.
3. What were the important reasons for the Simla Delegation?
4. What demands were made by the Muslims when they appeared before Lord Minto?
5. What were the important reasons for the Establishment of the All-India Muslim League?
6. What were the aims of the League at the time of its establishment? What was the role of Jinnah in serving the All-India Muslim League in its initial days?
7. What was the need for the Indian Councils Act of 1909 in British India?
8. Describe the salient features of the Minto-Morley Reforms.
9. What do you know about Quaid-i-Azam Muhammad Ali Jinnah's joining of Indian Politics?
10. Elaborate the services of Muhammad Ali Jinnah for the politics of South Asia.
11. Lucknow Pact was the success of Muhammad Ali Jinnah or of the Indian National Congress? Discuss.
12. Keeping in view the Lucknow Pact, Describe the efforts of Muhammad Ali Jinnah for the Unity of Indians.
13. Khilafat Movement was the Pan-Islamic Movement for the sake of the Ottoman Empire. Discuss.
14. Evaluate the role of Indian Muslims in the Khilafat Movement.
15. What was the role of Delhi Muslim Proposals bringing the Muslims and Hindus on the same platform?
16. Keeping in view the Delhi Muslim Proposals, describe the important decisions settled between the Indian National Congress and the All India Muslim League.
17. When did the Muslims feel that a separate state was necessary? Elaborate your answer in light of incidents between 1930 and 1940.
18. What was the background and importance of the Lahore Resolution?
19. Discuss the General Elections of 19545-46 and the Cabinet Mission Plan (1946).
20. Highlight the salient features of the 3rd June Plan (1947) and the Indian Independence Act (1947).

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Unit- 04

PAKISTAN MOVEMENT: ROLE OF LEADERS

Written By:
Arif Hussain

Reviewed By:
Prof. Dr. Anwar Shaheen

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INTRODUCTION

The Pakistan movement is full of efforts of the Muslim leaders. The Muslim -Pan-Islamist leaders played their role in the unity of the Muslims as they had the aspiration that the Muslims all over the world should be like a strong nation. Syed Jamal-ud-din Afghani, Muhammad Abduh, Sir Syed Ahmed Khan, Allama Iqbal, and Maulana Abul Kalam Azad were famous leaders who worked for the pan-Islamic movement. There was another kind of effort of those who worked for the Muslim nationalism and in the list of these leaders are well-known names of Muhammad Ali Jinnah, Allama Iqbal and Liaquat Ali Khan. The role of Muslim leaders at the provincial level was also remarkable. Sir Sikandar Hayat Khan and Sir Fazl-i-Hussain from the province of Punjab, Khwaja Nazimuddin and Huseyn Shaheed Suhrawardy from Bengal, and Sir Abdullah Haroon and Allah Bakhsh Soomro were the famous leaders from Sindh.

The role of women was also important in the Pakistan movement. Begum Rana Liaquat Ali Khan and Miss Fatima Jinnah were eminent women who worked a lot for the sake of Muslims. In this unit, the role of women and students has also been elaborated by the author. The students also remained active during the Pakistan movement. The All-India Muslim Students Federation and the Anjuman-e-Talaba-e-Islam were the well know organizations that awakened the Muslim students in the subcontinent. Abdul Sattar Edhi and Huseyn Shaheed Suhrawardy also worked as students in the Pakistan movement.

OBJECTIVES

After reading this unit, you will be able to:

1. Know how the struggle of the Muslims of South Asia transformed in the process of developing the Indian Nationalism into a Muslim Nationalism.
2. Understand the role of Muslim -Pan-Islamist leaders and the Muslim nationalist leaders during the struggle for achieving Pakistan.
3. Know the role of Muslim provincial political leaders in the creation of Pakistan.
4. Know the role of women and students in the Pakistan movement.

4.1 THE EVOLUTION FROM INDIAN NATIONALISM TO MUSLIM NATIONALISM

Pakistan movement, which aimed at establishing a separate homeland for the Muslims of the sub-continent, was led by the great, well-versed and foresighted leadership of great individuals who fought for the cause of Muslims passionately. The most celebrated leadership of Quaid-e-Azam with his political approach and sincere efforts for Muslims' separate homeland led the movement with great zeal and zest from the forefront. Jinnah's entry into the All India Muslim League induced a wave of great energy in Muslims whose issues were later on voiced clearly in demanding an independent homeland for them, to provide them with an opportunity to live a life with honor and dignity.

Mr. Jinnah was accompanied by great companions, such as the ideological founder of Pakistan, Allama Muhammad Iqbal and Jinnah's right-hand man, Liaquat Ali Khan who stood with Muslims in difficult times after independence. The basic ideology of the Pakistan movement was further endorsed by Abdul Sattar Edhi, whose name is known as a great philanthropist in the history of Pakistan, and Fatima Jinnah, who had learnt from the founder of Pakistan, who was also her brother, the true meaning of Pakistan movement. The untiring efforts of these figures together manifested unity, solidarity and dedication, which would be recorded in golden letters in history; it will always inspire the predecessors to live an honourable life. There was an unending struggle to continuously improve the prevailing situation to achieve this objective.

The evolutionary phase of Indian nationalism was again a historic happening witnessed by history. This phase sheds light on the intricate nature of various elements responsible for the rise of the Indian nationalist movement. Further discussion will shed light on various important events, philosophical thoughts, and dynamics that influenced this transformation of movement.

Early Phases of Indian Nationalism

Indian nationalism emerged amidst the chaotic rule of the British colonizers in the subcontinent. Hatred against the British was crowned by the abusive and discriminatory attitude of colonizers. Responding to this discrimination, foundations of nationalist ideology were laid down by prominent figures like Dadabhai Naoroji and Raja Ram Mohan Roy, who advocated the legal and constitutional rights of the people of the subcontinent.

Emergence of Communalism and Muslim Identity

As the events of the first three decades of the 20th century unfolded, the very thought of Hindu-Muslim unity was averted by communal pressures. Two identical groups—Muslims and Hindus— practicing different religions emerged out of one

community. Partition of Bengal on the part of the British further aggravated the situation on religious and cultural grounds.

Formation of the All-India Muslim League

The strengthened Muslim community needed a platform for political representation and as a result, the All India Muslim League was established in 1906. This organization aimed to defend the political rights of the Muslims in the subcontinent. The basic factor that played a role in the creation of the Muslim League was the narrow-minded and harsh attitude of the Indian National Congress.

World War I and Political Mobilization

The eruption of catastrophic events of the WW-I invigorated the political movements in India. The nationalist movement took new turns because of the promising words of colonizers about the betterment of the people of the subcontinent on an administrative and political basis. Muslim identity was politicized because of the support and sponsorship offered by people of the subcontinent to the British during the two great wars.

Lucknow Pact and Two-Nation Theory

The Pact of Lucknow aimed at presenting two poles apart communities as a united front against the British imperialism. Later on, with the change of tide, its spirit faded thus giving way to the evolution of the Two Nation Theory, positing Muslims and Hindus as two distinct communities. This ideological change later on laid the foundations of a strong demand for a separate homeland for the Muslims of India.

Khilafat Movement and Hindu-Muslim Unity

Khilafat movement which resulted in the consequence of the disbandment of the Ottoman caliphate, brought forward unbelievable moments of Hindu-Muslim unity. The Union of the two distinct religious communities was manifested by the joint efforts of the Hindu and Muslim leaders. An obvious shift was observed in Gandhi's extremist approach as well as his participation in the Khilafat movement.

Non-Cooperation Movement and Aftermath

The Non-Cooperation movement, started by Gandhi in 1920, contributed a lot to the nationalist movement. Failure of it, however, left the Muslims of India in an enigma. A reassessment of political strategies was direly needed after this failure to achieve political outcomes and lagging behind the goals of so-called ‘Hindu Muslim unity’.

Demands for Separate Electorates and Simon Commission

Enhanced political representation on the part of all India Muslim League

further strengthened the League's demand for a separate electorate. The absence of Indian representation in the evaluation of Indian legislation by the Simon Commission in 1927 further aggravated the situation. Public sentiments and social rift were worsened by the failure to achieve the right of self-governance.

Round Table Conferences and Failure of Compromise

The prominent feature of Round Table Conferences in 1930-1932 was to pinpoint constitutional gaps to be filled up by reforms in India but it only highlighted a split between Hindu and Muslim leadership. All efforts, which aimed at devising politically acceptable plans like the Communal Award 1937, ended up in conditional acceptance of the Muslim political identity.

Pakistan Resolution and Lahore Resolution

At the zenith of political chaos demand for a separate electorate gained popularity. The demand for a separate electorate was replaced with a demand for a separate homeland in Pakistan resolution of all India Muslim league in 1940. Pakistan's resolution laid the foundations to create an ideological state out of British India at the critical stage of Muslim nationalism.

The transformation of Indian nationalism to Muslim nationalism highlights the complex interplay of various sociological and economic factors. It brings to light social rifts and differences in political ideals existing in that society. The initial goal of your nationalist movement was the unity of Indians against the illegal occupation of the sub-continent. The emergence of Muslim nationalism brought to light the complexity of identity and Muslim representation in a dynamic society of sub-continent.

4.2 PAN-ISLAMIST LEADERS

Pan-Islamism does not confine itself to the propagation of Muslim representation at the national level, but it goes across national boundaries. The main agenda preached by pan-Islamist leaders was to unite Muslims worldwide against British imperialism, to advocate a unique Muslim identity and to shed light on challenges prevailing in Muslim communities. This essay discusses ideologies; movements and influence of pan-Islamist leaders with the purpose of exploring the contributions of these leaders in reshaping Muslim identity in the contemporary era of global advancements and geopolitical innovation.

Historical Roots of Pan-Islamism

Pan-Islamism emerged with the urge to establish political and religious control over a diverse Muslim population. The downfall of Muslim rule and colonial challenges posed before Muslims redefined the very concept of pan-Islamism.

Early Pan-Islamist Leaders

1. Jamal al-Din al-Afghani (1838-1897)

The late 19th century witnessed a well-versed scholar who coined the presented idea of pan-Islamism. His message focused on the reunion of Muslims and the collectiveness of Muslims against colonizers. Jamal-ud-din Afghani successfully fostered his ideas to upcoming generations who further laid efforts in consolidating the basis of pan-Islamism.

2. MUHAMMAD ABDUH (1849-1905)

An Egyptian scholar and reformer who joined Jamal ud din Afghani in his efforts to propagate Islamism. Abduh laid great emphasis on the modernization of Muslim thoughts with the preservation of old sacred values and rich Muslim culture.

3. SIR SYED AHMAD KHAN (1817-1898)

Sir Syed is considered the pioneer of pan-Islamist thought in the sub-continent. Sir Syed advocated the education of Muslims on a modern basis along with the propagation of unity and togetherness of Muslims. He envisioned a modern Muslim society able enough to counter the modern world challenges while staying loyal to true Islamic teachings.

4. ALLAMA IQBAL (1877-1938)

Allama Iqbal also perpetuated the best idea of pan-Islamism through his poetry and philosophy in the sub-continent. The idea of Ummah presented by Iqbal demanded the collective assertiveness of Muslims to stand in front of Western imperialism. His poetry served the purpose of enriching Muslim souls with the urge to regain the lost legacy of being supreme in the world.

5. MAULANA ABUL KALAM AZAD (1888-1958)

Maulana Abul Kalam Azad was yet another prominent proponent of pan Islamist ideology. Being a significant member of Congress, Abul Kalam Azad, initiated the idea of reuniting Muslims to stand up worldwide along with conveying the message to colonizers. He knew that the enslaved minds of Muslims could only be liberated with the help of pan Islamism.

Ideologies of Pan-Islamist Leaders

Pan Islamist ideology revolved around the following prominent features:

1. Islamic Unity

Pan Islamist propagators advocated the unity of Muslims. They believed that Muslims were a Ummah regardless of various distinctive cultural values.

2. Resistance to Imperialism

Pan-Islamists wanted Muslims to rise against the tools of Western colonialism, which affected their culture to a great extent. They sought urge in motivate the Muslims against the Western agenda of controlling the Muslim lands and culture.

3. Promotion of Islamic Identity

They advocated the strengthening of a unique Islamic identity to face Western occupation of Muslim thoughts. They encouraged modernity along with the preservation of old Islamic values and culture.

Pan-Islamist Movements

The Khilafat Movement (1919-1924)

The Khilafat movement envisaged the defense of the Ottoman caliphate against the Western occupation. It not only induced a wave of energy in Muslims but also highlighted the importance of Muslim unity and resilience against the West.

2. The Muslim Brotherhood (Founded in 1928)

This organization founded by Hasan Albanah is considered the most effective organization. Having its branches worldwide it enlists a practical approach to Islamic law and social justice.

3. Jamaat-e-Islami (Founded in 1941)

Founded by Maulana Abu Aala Mawdudi, Jamaat-e-Islami was a political aspect of pan Islamist ideology seeking practical implementation of Islamic laws in the land of religious practices. It has shaped Pakistan's policy under its strong influence.

Impact of Pan-Islamist Leaders

1. Mobilization of Muslim Communities

Pan Islamist leaders have laid great service in not only making Muslims politically active but also enabling them to face any challenge posed by the Western world.

2. Influence on Political Discourse

Pan Islamists have reshaped political discourse and influenced the policies and agendas of the Muslim world.

3. Challenges to Secularism

Demand for implementing Islamic laws in all domains of public life has also challenged secular ideology and mindset.

4. Challenges and Criticisms

The modern world accuses pan Islamism of the propagation of extremism and

terror, which is a big challenge to be addressed.

5. Adaptation to Modern Contexts

Pan Islamists have utilized modern technology to convey their messages to the whole world without being confined to mere national boundaries.

6. Continued Relevance

Despite being accused of negative thoughts, pan Islamism still survives in the face of the modern world addressing the issue of Muslim Ummah. This movement has a great impact on Muslim politics. It has greatly influenced the political dynamics of the Muslim world. Despite facing challenges pan Islamism remains an active force in implementing the legacy of great Muslim leaders in the modern era.

4.3 MUSLIM NATIONALIST LEADERS

A chapter never to be forgotten was the creation of Pakistan in the history of South Asia. This was made possible with the untiring efforts of great Muslims who inspired the Muslims with the great glory of the golden past and encouraged the victimized communities of the subcontinent to win a separate homeland for themselves. This essay tries to highlight the efforts of Muslim nationalist leaders in reshaping Muslim identity with inculcation of political insight.

IDEOLOGICAL FOUNDATIONS

Historical Context

The emergence of the Pakistan movement is credited with the outcome of increased demand for Muslim representation and the perceived alienation of Muslims from major influencing factors in their lives. The extremist mindset of Congress in combination with British rule had not only worsened the scenario in the subcontinent but also articulated the very idea of identity on a political and religious basis among the Muslims.

Two-Nation Theory

Proponents of Two Nation theory advocated the fact that Muslims and Hindus were two distinct nations because they had remarkable differences in their social and religious spheres. This idea of distinction intensified the demand for a separate homeland and provided Muslims with the ground to stand on for their basic rights.

Islamic Identity

Nationalist leaders emphasized on the idea of Islamic identity as a unifying factor in the subcontinent. They highlighted the fact that Muslims shared major religious, political and cultural values which distinguished them from other communities of the subcontinent and justified their right to live independently in accordance with their code of conduct.

Prominent Muslim Nationalist Leaders

1. Muhammad Ali Jinnah (1876-1948)

The Founding Father of Pakistan, Muhammad Ali Jinnah, rendered great service for the cause of Muslims. His foresighted leadership and political insight won Muslims with great reward. Pakistan resolution was the document, which was put to practice by the greatest leader of his time, whom the Indian Muslims trusted blindly.

2. Allama Mohammad Iqbal (1877-1938)

Iqbal played the role of a revolutionary figure who, with his poetry, invoked the bygone self-respect of Muslims. He proposed in his Allahabad address of 1930, the set of reasons behind the creation of a separate homeland, and argued forcefully to advocate its creation.

3. Liaquat Ali Khan (1895-1951)

Liaquat Ali Khan was a close companion of Quaid e Azam and a proponent of the Pakistani movement. He served on practical grounds the cause of Muslims after the creation of Pakistan as its prime minister. His focus was to uplift the economic, social, and international status of Muslims in Pakistan.

Contributions of Muslim Nationalist Leaders

1. Articulation of Muslim Aspirations

These leaders addressed issues of Muslims. They advocated the right of political and religious representation of Muslims in the subcontinent. They mobilized the mob into a united group for a common cause with their speeches and writings.

2. Mobilization of Masses

Muslim nationalist leaders emphasized on unity of people on religious and political basis ignoring ethnic differences. They motivated the divided people collectively to support the demand for a separate homeland through rallies, protests, and public meetings to make them aware of the significance of self-determination.

3. Negotiation and Diplomacy

These leaders held meetings with both the oppressors' British rulers and extremist Hindus to win the political rights and security of Muslims. Jinnah's political conscience enabled Muslims today to enjoy political representation amidst a hostile environment in the subcontinent.

Challenges Faced by Muslim Nationalist Leaders

1. Opposition from Hindu Leaders

Muslim nationalist leaders had to counter at first the opponents of the very idea of creation of Pakistan, including among them prominently were the extremist Hindus. Chaos and violence often emerged out of nowhere in response to the efforts for division of the subcontinent.

2. Internal Divisions

Internal conflicts of Muslim communities based on ideology, political thoughts and leadership were also a strong opposing factor in the cause of creation of Pakistan. Religion cultural gap also hindered the achievement of unity needed to win a separate homeland for Muslims.

3. British Colonial Resistance

Another significant factor, that stood in opposition to Muslim nationalist leaders, was a colonial mindset, which was not ready to accept the division of the subcontinent on a religious basis. These leaders had to face enigmatic challenges to negotiate with colonizers in order to liberate Muslim-majority areas.

Muslim nationalist leaders to serve the cause of winning Muslims' religious, social, and political rights played a significant role. With their foresight and wisdom, these leaders had set grounds to turn the dream of independence into a reality. These tireless efforts of nationalist leaders are still commemorated as foundational stones of independence and establishment of a separate identity.

4.4 MUSLIM PROVINCIAL POLITICAL LEADERS IN THE PAKISTAN MOVEMENT

Pakistan movement did not involve few persons and factors in its achievements, rather it had a vast range of people who devoted themselves for the national cause. In collaboration with nationalist leaders like Jinnah and Iqbal, provincial leaders also played key role in this respect. The efforts and contributions of Muslim leaders at provincial level will be highlighted in this section. It will shed light on the journey of provincial leadership under the guidance of Quaid e Azam to motivate the masses, to unite the divided Muslims and to address provincial issues at their best.

Introduction to Provincial Political Leaders

Along with nationalist leaders, role of provincial leadership cannot be undermined. They actively participated in Pakistan movement at regional level. They encouraged masses at basic level to fight for their rights in the leadership of great visionaries. These leaders had various backgrounds and utilized those roots to promote the ideas of nationalist leaders at regional level to add to the effectiveness of cause of Muslim independence.

Leaders in the Punjab

1. Sir Sikandar Hayat Khan (1892-1942)

Sir Sikandar Hayat Khan was a prominent Muslim leader from Punjab who served as the Prime Minister of the Punjab province from 1937 to 1942. He was a key figure in the Unionist Party, which represented the interests of landlords and rural elites in Punjab. Despite his initial opposition to the demand for Pakistan, Sikandar Hayat Khan later

supported the Lahore Resolution and played a crucial role in mobilizing support for the creation of Pakistan among the Punjab's Muslim population.

2. Sir Fazl-i-Hussain (1877-1936)

Sir Fazl-i-Hussain was another influential Muslim leader from Punjab who played a significant role in the Pakistan Movement. He was a member of the Indian Legislative Assembly and served as the President of the All India Muslim League. Fazl-i-Hussain advocated for the rights of Muslims in the Punjab and worked towards promoting Muslim unity and representation in British India's political institutions.

Leaders in Bengal

1. Khwaja Nazimuddin (1894-1964)

Khwaja Nazimuddin was a prominent Muslim leader from Bengal who played a crucial role in the Pakistan Movement. He served as the Chief Minister of Bengal and later as the Prime Minister of Pakistan. Nazimuddin was a staunch supporter of the demand for Pakistan and he actively campaigned for Muslim rights in Bengal. He played a key role in mobilizing support for the Lahore Resolution in Bengal and, later on, was instrumental in the creation of East Pakistan (present-day Bangladesh).

2. Huseyn Shaheed Suhrawardy (1892-1963)

From Bengal, Huseyn Shaheed Suhrawardy was a significant Muslim figure, who took part in the historic Pakistan Movement. He had the honor of serving as Prime Minister of Bengal and was an eminent part of the All-India Muslim League. He organized political movements and agitations in favor of South Asian Muslims' rights and for their autonomy in Bengal. On 12 September 1956, he took the charge of the Prime Minister of Pakistan and devoted his efforts to tackle socio-economic challenges in the newly formed state.

Leaders in Sindh

1. Sir Abdullah Haroon (1872-1942)

Another crucial figure of Pakistan movement was Sir Abdullah Haroon, a prominent Muslim leader from Sindh. He was one of the founders of the All India Muslim League and provided his services as its president in Sindh. He mobilized and motivated the Muslims from Sindh in attaining their rights and played a key role of providing support to Muslims of Sindh in the creation of an independent Muslim state of Pakistan.

2. Allah Bakhsh Soomro (1890-1943)

Another powerful Muslim leader from Sindh was Allah Bakhsh Soomro, who participated in the Pakistan Movement devotedly. He was also one of the well-known figures of All India Muslim League and had served as Prime Minister of

Sindh. He played vital role in propagating political movements and advocating the rights of people in front of British government and providing support to the Muslims of Sindh.

Leaders in Baluchistan

In the province of Baluchistan, the Muslim League was founded in 1939. In 1939, Qazi Muhammad Isa of Baluchistan was a local lawyer, who founded an organization namely Baluchistan Muslim League in 1939 at Pishin, during a meeting in a local mosque. It was originally, the Baluchistan Muslim League, however, it had no proper constitution. A few weeks later the Baluchistan Muslim League joined All-India Muslim League.

Naudir Bakht and Sajida Begum explained in their paper 'Muslim League in Baluchistan', that Qazi Isa founded Muslim League on the request of Jinnah when both leaders met in Bombay Race-Course through Nawab Taleh Mohammad Khan Palen Puri in 1939. The citizens of Baluchistan Province were inherently freedom fighters, and they loved their freedom. They did not accept the British sovereignty at all.

Third annual session of the Baluchistan Muslim League was held on 3 July 1943 at Islamia High School grounds, Quetta under the Presidentship of Qazi Mohammed Isa. Quaid-i-Azam Mohammad Ali Jinnah was the Chief Guest during this session of Baluchistan Muslim League.

Role of Provincial Political Leaders in THE Pakistan Movement

1. Mustering up the Grassroots Support

Provincial political leaders were the key to mobilize and put together the grassroots support for the Pakistan Movement amongst Muslims in their particular areas. Through agitations, political rallies and awareness speeches, they raised consciousness about the demand for Pakistan and motivated the common person's support for the noble cause.

2. Representation of Regional Interests

The regional leaders represented and advocated the explicit welfare and expected concerns of the Muslims in their regions, as well as tried to uphold their cultural, socio-economic, political, and religious rights. They encountered the specific challenges faced by Muslims in their respective regions and struggled towards addressing them as important aspect of Pakistan Movement in its larger framework.

3. Negotiation with Colonial Authorities

These provincial political leaders used to engage in dialogue with British colonial authorities to ensure the political participation and support for Muslims in their respective regions. They effectively planned for Muslim inclusion in

provincial governments and legislative bodies, trying to ensure that Muslim interests were effectively represented and safeguarded in British India's political establishment.

4.5 ROLE OF WOMEN IN PAKISTAN MOVEMENT

The Pakistan Movement, which culminated in the creation of Pakistan in 1947, was an exemplary and unprecedented movement in the South Asian history. While, the men are appreciated and credited for the success of Pakistan movement, we cannot ignore the participation and endless efforts and sacrifices of Muslim women of the subcontinent. This section highlights the participations of women in the Pakistan Movement, spotlighting their activism, sacrifices and empowered features in the struggle for attaining self-determination and independence.

Women's Participation in the Pakistan Movement

Women's contribution in the Pakistan Movement was multidimensional, involving a mixture of forms of activism, control, and supporting roles. Despite the communal norms and limitations, women from varied backgrounds took part in the movement, signifying buoyancy, valor, and determination in chasing of their goals.

Political Activism

1. All India Muslim Women's Conference

It was founded on 1936 and provided a frontline role for Indo-Pak Muslim women to express their reservations and take part in the political discourse. The prominent women figures like Begum Jahanara Shahnawaz and Begum Liaquat Ali Khan led this organization. The key purpose of the conference was to advocate women's rights and showcase their support in the demand of Pakistan.

2. Women's Branch of the All-India Muslim League

This specific branch was established in the decade of 1940. It also motivated and activated Muslim women across British India in the support of the Lahore Resolution and expressed their support in the demand for Pakistan. Women distributed pamphlets; they planned rallies, and collected funds for the noble cause of independence, representing their dedication to the movement.

Educational Empowerment

1. Begum Rana Liaquat Ali Khan

The well-known figure, Begum Rana Liaquat Ali Khan, the companion of Pakistan's first Prime Minister, was a revolutionary advocate for women's empowerment and education. As she was the president of the All Pakistan Women's

Association, she worked determinedly to endorse girls' education, professional training, and women's rights in the new independent country.

2. Miss Fatima Jinnah

Fatima Jinnah, the sister of Muhammad Ali Jinnah, performed an eminent role in the Pakistan Movement and following nation-building efforts. She was well-qualified woman, and supported her brother's political struggle and energetically contributed to public events, where she advocated women's rights and gender justice.

Grassroots Mobilization

1. Women's Participation in Mass Movements

Women fearlessly participated in all type of rallies, organized corner meetings and conferences and took part in Pakistan movement with full zeal and zest. They broke societal norms and took risks about their safety. Women raised voice against British rule and demand the independence of sub-continent.

2. Rural Women's Contributions

In rural areas, women participated through their services and resources in supporting the Pakistan Movement. They supported their families, managed household economies and offered full support to their male advocates engaged in political activities.

Challenges Faced by Women in the Pakistan Movement

1. Societal Norms and Restrictions

The women participation in Pakistan movement was not an easy task for the subcontinent women of that age; they faced communal norms and limitations that restricted their participation in community life and political activism. Cultural expectations and regional attitudes often downgrade women to subordinate roles, holding their capability to fully engage in the Pakistan Movement.

2. Lack of Recognition and Representation

Regardless of their noteworthy assistance, women's roles in the Pakistan Movement were often ignored or overlooked by male leaders and historians. Women were recurrently barred from decision-making processes and leadership positions, totally not accepting the recognition they deserved.

Impact and Legacy

1. Women's Empowerment

The Pakistan Movement provided an opportunity to women to get empowered in political activism, education, and leadership. Women's participation broke the

taboos of traditional gender roles and contributed to accelerate the social changes that lined up the paths for greater gender impartiality and empowerment in Pakistan.

2. Inspiration for Future Generations

The subcontinent women leadership proved as an inspiration for the future female activists and leaders. Their spirit, audacity, and willpower have been continuously inspiring women in Pakistan and all around the world to demand their rights and practice social justice.

4.6 THE ROLE OF STUDENTS IN THE PAKISTAN MOVEMENT

The Pakistan Movement, which culminated in the creation of Pakistan in 1947, was a enormous struggle for independence and autonomy. Where, there was political leadership and political activism played crucial roles, students of that era also made considerable contributions to the Pakistan movement. This section looks at the crucial role of students in the Pakistan Movement, stressing on their activism, guidance, and dedication to achieve the goal of nation building and attaining the Muslims' basic human rights.

Student Activism in British India

The root cause of student activism in British India was immensely connected with the larger nationalist movement against British rule. Students from corner to corner of subcontinent were inspired by ideals of liberty, integrity, and self-recognition and motivated to challenge British imperialism and ready to demand the rights of their fellow countrymen..

Formation of Student Organizations

1. All India Muslim Students Federation (AIMSF)

This Students Federation, founded in 1937, appeared as a foremost platform for sub-continent's Muslim students to take part in the Pakistan Movement. This federation planned conventions and political campaigns to assemble support for the demand of independent state and lift up awareness about the dilemmas of Muslims in British India.

2. Anjuman-e-Talaba-e-Islam

Anjuman-e-Talaba-e-Islam, founded in 1921, was one more influential student organization that played a considerable role in the success of Pakistan Movement. Encompassing Muslim students from a range of educational institutions, Anjuman-e-Talaba-e-Islam advocated Religious values, cultural uniqueness, and opinionated activism among its members.

Contributions of Students to the Pakistan Movement

1. Political Mobilization

Muslim students displayed a vital role in assembling support for the Pakistan Movement through their activism and managerial skills. They organized convention, public corner meetings, and manifestation to lift up awareness about the demand for independence and gather public support for that noble cause.

2. Propagation of Ideas

Students publicize the value of freedom, democracy, and self-realization through their association in the Pakistan Movement. They circulated pamphlets, wrote down articles, and communicated their opinions through speeches to educate their fellow countrymen and on the wider ground raising awareness about the significance of independence and nation-building.

3. Civil Disobedience

Students enthusiastically took part in civil disobedience movements and non-violent remonstration against British colonial rule. They boycotted classes, staged sit-ins, and participated in strikes to pressurize British authorities and insist on political alterations that would surface the way for independence.

Student Leaders in the Pakistan Movement

1. Abdul Sattar Edhi

Abdul Sattar Edhi, a prominent humanitarian and social worker, was enthusiastically involved in student activism during the Pakistan movement. He provided relief to refugees during the Partition and later founded the Edhi Foundation, one of the prevalent helpful organizations in Pakistan.

2. Huseyn Shaheed Suhrawardy

Huseyn Shaheed Suhrawardy, a well-known politician and public official, was a student organizer during the Pakistan Movement. He played a key role in managing student protests and mobilizing support for the demand of independence. In the later years, he served as the Prime Minister of Pakistan and made noteworthy efforts for the country's growth.

Challenges Faced by Student Activists

1. Repression and Suppression

Student activists faced oppression and restraints from British authorities, who looked at their activism as a risk to the British rule. Many student leaders were kept

under arrest, captivated, and subjected to harassment and threats for their association with the Pakistan movement.

2. Lack of Resources

Student activists frequently lacked assets and funding to uphold their activism and manage efficient campaigns. They relied on grassroots support, volunteer activism, and societal solidarity to overcome these challenges and sustain their struggle for independence.

Impact and Legacy

1. Shaping National Consciousness

Student involvement played a vital role in determining the commoners' level of awareness in British India, nurturing wisdom of unity, harmony, and willpower in the struggle to attain an independent state.

2. Fostering Leadership Skills

The Pakistan Movement created a priceless training ground for prospective leaders, empowering students with guidance skills, organizational capacity, and a sense of civic accountability that would serve them well in their future challenges.

Students were an influential group in the Pakistan Movement; they contributed in the successful achievement of freedom and the following task of nation-building through their self-determination and political activism. Their assistance highlights the significance of youth participation in shaping history and moving forward the ideals of democracy, justice and self-determination. The legacy of student activism in the Pakistan Movement continues to motivate prospective generations of leaders and advocates in Pakistan and around the world.

SELF-ASSESSMENT QUESTIONS

1. Describe the Role of Leaders for the creation of Pakistan from the provinces of Sindh and Punjab.
2. Highlight the Muslim Pan Islamist Leaders and the ideologies of the leaders.
3. Elaborate the pan-Islamist movements and the impact of pan-Islamist leaders.
4. Describe the Prominent Muslim Nationalist Leaders of South Asia and their role in Pakistan movement.
5. What were the important challenges faced by the Muslim national leaders?
6. Highlight the personalities of the Muslim provincial political leaders and their role in Pakistan movement.
7. Discuss the contribution of Muslim women in the movement for the establishment of Pakistan.
8. The Muslim students played a vital role in the Pakistan movement and faced a number of challenges. Discuss.

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Unit- 05

INTRODUCTION TO THE CONSTITUTION OF PAKISTAN

Written By:
Muhammad Zaman

Reviewed By:
Prof. Dr. Abdul Rauf

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INTRODUCTION

In the present day world, the importance of constitution cannot be neglected. The definition and importance of the constitution has been discussed in this unit. There are many types of constitution and each one has its own features. Constitution is an important document and laws are developed according to the guidelines of the constitution. We simply say that the state is a piece of land population and a rule is called state. There are 4 elements of the state including area, population, government and sovereignty A constitution is a brief documentation of principles and under these principles the state prepares or develops the set of laws to run the governance. It is the constitution through which the governments set out the fundamental rules to govern the state. It describes the main institutions or organs of the state and defines the relationship between these institutions (for example, between the executive, legislature and judiciary) and also determines the functions, duties and their role in the country. It places limits on the exercise of power, and sets out the rights, responsibilities, and duties of citizens.

Most countries of the world have their constitution codified in a single document, known as a codified (or written) constitution. Codified constitutions are produced sometime following a revolution (like the American constitution of 1787 or the French constitution of 1791); or total defeat in war (like the post-war constitutions of Germany and Japan); or a complete collapse of legitimacy of the previous system of government (like post-apartheid South Africa, or post-Soviet Russia); or the attainment of independence (like all the countries of the former British empire). None of these things have happened to the UK, which is why it has never had cause to codify its constitution. .

OBJECTIVES:

After Reading this unit, the students will be able to:

1. Define and understand the importance of the Constitution.
2. Understand the different types of constitutions.
3. Know about the procedure of the constitution and the structure of the adoption of the constitution.
4. Know about the procedure of constitutional amendment (s).

5.1 DEFINITION AND IMPORTANCE OF CONSTITUTION

Constitution is considered as a legal document of a country called law book or constitution. It determines the governing principles of a state or country. It defines the basic institutions of the state and explains the relationships between these institutions (for example, between the executive, legislature and judiciary) and decides the duties, responsibilities and roles of these institutions in the state. It limits the use of power and determines the rights, duties and obligations of citizens. Written laws are sometime created after a revolution (such as the 1787 U.S. Constitution or the 1791 French Constitution); collapsed governments (such as post-apartheid South Africa or post-Soviet Russia); Nothing happened to England, so there is no need for England to make laws. (One of our changes in the 17th century was simply a written document: Cromwell's Instruments of Government). . Legislative changes usually require approval by a majority of the legislature or a vote, and sometimes both. For example, changes to Japan's constitution require approval by two-thirds of the majorities in both houses of the executive, followed by simple majority approval in elections. Amendments to the U.S. Constitution require a two-thirds majority vote in both houses of Congress and are then approved by three-quarters of the state legislatures (38 of the 50 states).

Definition of the Constitution

A constitution is a set of fundamental rules that determine how a state is run. Almost all constitutions are “codified”, which simply means they are written down clearly in a specific document called “the constitution”.

Constitution is the most popular expression that lays down the purpose of the constitution and is considered as the official document of the country called constitution or constitution. It determines the governing policy of a country or nation. It defines the central institutions of the state, explains the relationships between these institutions (such as executive, legislative and judicial) and determines the responsibilities, functions, roles and responsibilities of these institutions in the state. It limits the use of power and determines the rights, duties and obligations of citizens. Writing is usually done after a revolution (e.g. the 1787 US Constitution or the 1791 French Constitution), government collapse (e.g. post-apartheid South Africa or post-Soviet Russia, without what happened in the UK), so there is no need for the UK to have rights. (The only change we have in the 17th century is a written document: Cromwell's Instruments of Government). . Legislative changes usually require a majority vote or a vote of the Legislature, and sometimes a vote of both. For example, amendments to Japan's constitution require approval by a two-thirds majority of both houses of the Executive Committee, followed by simple majority approval in elections. Amendments to the U.S. Constitution require a two-thirds majority vote in both houses of Congress,

followed by approval by three-quarters of the state legislatures (38 out of 50 states). Translate or reinterpret. In some countries, such as the United States, judicial review will be important due to significant changes in the law and changes in the legal system. order – and between national and state levels of government. They are harder than the law. Both of these processes are more difficult than getting legislation passed by a majority in both houses of Congress; this reflects the importance of the rights stated in the constitution.

Importance of the Constitution:

The Constitution is the fundamental law of a nation that outlines the powers and limitations of the government, and the rights and duties of citizens. It is an essential document that sets the framework for the governance of a country and serves as a safeguard against tyranny and abuse of power. Why is a constitution important? A constitution is important because it ensures that those who make decisions on behalf of the public fairly represent public opinion. It also sets out the ways in which those who exercise power may be held accountable to the people they serve.

The importance of a constitution lies in its role as the fundamental framework for governance within a country or organization. Here's a detailed explanation of why constitutions are crucial:

1. **Legal Foundation:** A constitution serves as the highest legal authority within a country. It establishes the framework for all laws, regulations, and policies. Any law that contradicts the constitution can be declared null and void by the judiciary. This ensures that all laws are consistent with the fundamental principles and values outlined in the constitution.
2. **Protection of Rights:** Constitutions typically include a bill of rights or similar provisions that protect the rights and freedoms of individuals. These rights may include freedom of speech, freedom of religion, the right to a fair trial, and protection against discrimination. By enshrining these rights in the constitution, they are safeguarded from infringement by the government or other individuals.
3. **Limitation of Government Power:** Constitutions often include checks and balances to prevent any one branch of government from becoming too powerful. For example, they may establish separate branches of government (executive, legislative, and judicial) with distinct powers and responsibilities. Additionally, constitutions may include mechanisms such as judicial review, which allows the judiciary to review the constitutionality of laws and actions taken by the government.

4. **Stability and Continuity:** A constitution provides stability and continuity in governance by establishing the fundamental principles and rules that govern the state. It sets out the procedures for selecting leaders, making laws, and resolving disputes. This ensures that even as governments change, there is a consistent framework in place to guide decision-making and maintain order.

5. **Social Cohesion:** Constitutions often reflect the shared values, history, and aspirations of a society. By articulating these common principles, a constitution can promote social cohesion and national unity. It provides a sense of identity and belonging, helping to bind diverse communities together under a common set of principles and laws.

6. **Rule of Law:** A constitution helps to uphold the principle of the rule of law by establishing a framework within which laws are made and enforced. It ensures that laws apply equally to all individuals and that government actions are subject to legal scrutiny. This helps to prevent arbitrary exercise of power and promotes a fair and just society.

7. **Flexibility and Adaptability:** While constitutions are often seen as stable documents, they also have mechanisms for amendment or revision. This allows them to adapt to changing circumstances and evolving societal norms. However, the process for amending the constitution is usually deliberately rigorous to ensure that changes are made thoughtfully and with broad consensus. The process of constitutional amendment is different in different states.

In summary, a constitution is crucial because it provides the legal and institutional framework for governance, protects individual rights, limits government power, promotes stability and social cohesion, upholds the rule of law, and allows for adaptation to changing circumstances. It serves as the cornerstone of a democratic society, ensuring that government power is exercised responsibly and in accordance with the will and values of the people.

Constitution of Pakistan

In Pakistan, the Constitution of 1973 stands as a beacon of democracy, emphasizing the principles of justice, equality, and freedom. It establishes the organs of the state, delineates their powers, and outlines the fundamental rights of citizens.

The constitution of Pakistan is the supreme law that lays down the framework and demarcates powers, procedures, duty, structure, code, and the functioning of various government institutions. The constitution of Pakistan is a written constitution. It based of Islamic rule stated by Quraan and Sunnah which was declared in the objectives resolution on 12 March 1949.

This entitles supreme, uncontrollable, and absolute powers to the government of our country. This is the backbone of our Constitution of Pakistan and protects the rights of the people. Sovereignty can be of two types, internal sovereignty and external sovereignty. Internal sovereignty entitles the states to the power to govern themselves and makes laws in certain cases if required. In contrast, external sovereignty declares government as the supreme authority and entitles it to cede a part of any territory if required.

The constitution of Pakistan is set up to ensure equal rights to everyone without discrimination of religion, caste, color and creed and to entitle people with the power to select their profession source of livelihood according to the teachings of Islam. The main objectives of the Constitution of Pakistan include sovereignty, Islamization, democracy, and republic. Apart from this, justice, liberty, and fraternity are also a part of the objectives of the Constitution of Pakistan.

The Constitution and the justice system are the backbone of any democratic society, serving as guardians of the rights and liberties of its citizens. In Pakistan, these two pillars play a crucial role in shaping the nation's destiny, ensuring fairness, and upholding the rule of law. However, like any system, they are not without their challenges and shortcomings.

The Necessity of the Constitution:

The constitution is the main law of the country, which forms the basis of governance, distribution of power and protection of human rights. In Pakistan, the 1973 Constitution is a beacon of democracy that emphasizes the principles of justice, equality and freedom. It forms the basis of the state, determines its powers and defines the rights of citizens. It paves the way for balancing the powers of the executive, legislature and judiciary, ensuring that no single unit is omnipotent. The Constitution promotes stability, trust and continuity in governance structures by providing a legal framework.

The Justice System's Vital Role:/ Role of the Judiciary:

A robust justice system is essential for the effective implementation of the constitution and the maintenance of law and order. It ensures that disputes are resolved impartially, criminals are held accountable, and citizens can seek redress for grievances. In Pakistan, the judiciary, as an integral part of the justice system, interprets and applies the law, acting as a check on the powers of the other branches.

The judiciary's independence is paramount, allowing it to act as a neutral arbiter and safeguard against any abuse of authority. It serves as a guardian of the constitution, ensuring that laws enacted do not violate its provisions and that justice is served without fear or favor.

Challenges Faced by the Constitution and Justice System in Pakistan:

Despite their fundamental importance, the constitution and justice system in Pakistan face challenges that hinder their effectiveness. Pakistan's constitution and justice system face several challenges, which can hamper the country's progress towards a fair, transparent, and democratic society. Here are some of the key challenges:

1. **Political Instability:** Pakistan has experienced periods of political instability, resulting in disruptions to the constitutional and legal framework. Frequent changes in government can lead to inconsistent policy implementation and weaken the rule of law.
2. **Backlog of Cases:** Overburdened courts and a backlog of cases contribute to delays in the dispensation of justice. This delay can hinder access to justice for citizens, eroding confidence in the legal system.
3. **Human Rights Concerns:** Instances of human rights violations, including extrajudicial killings and enforced disappearances, have raised concerns about the protection and enforcement of fundamental rights in the country.
4. **Access to Justice:** There is a significant disparity in access to justice, with marginalized communities often facing barriers such as lack of legal representation and awareness of their rights, exacerbating social inequality.
5. **Judicial Activism:** While judicial activism can be a positive force for justice, an excessive involvement of the judiciary in policy matters can blur the separation of powers, leading to concerns about overreach.
6. **Military Influence:** Historically, Pakistan has experienced significant military intervention in politics, leading to instability and undermining civilian governance. The military has at times directly ruled the country and has influenced political decisions even during civilian governments. This interference poses a challenge to the supremacy of the constitution and the rule of law.
7. **Weak Rule of Law:** Despite the existence of a constitution and legal framework, the rule of law in Pakistan is often weak. Corruption, inefficiency, and political influence can undermine the functioning of the justice system. Many Pakistanis perceive the legal system as inaccessible, slow, and prone to manipulation, which erodes public trust in institutions.
8. **Judicial Independence:** While Pakistan has an independent judiciary in theory, in practice, the judiciary has faced challenges to its independence. Political pressure, threats from extremist groups, and interference from powerful interests can compromise judicial autonomy. Ensuring the

judiciary's independence is essential for upholding the rule of law and protecting citizens' rights.

9. **Security Concerns**: Pakistan faces significant security challenges, including terrorism, sectarian violence, and organized crime. These threats can overwhelm law enforcement agencies and the judicial system, leading to issues such as prolonged detention without trial, extrajudicial killings, and human rights abuses. Balancing security concerns with respect for human rights and due process is a complex challenge for the justice system.
10. **Limited Access to Justice:** Many Pakistanis, particularly those in rural areas and marginalized communities, face barriers in accessing justice. Factors such as poverty, illiteracy, geographic remoteness, and social discrimination can limit individuals' ability to seek legal redress. Strengthening legal aid services and improving the accessibility of the justice system are essential for ensuring equal justice for all citizens.
11. **Religious Extremism:** Pakistan's blasphemy laws are highly controversial and have been misused to target religious minorities and dissenting voices. Cases of blasphemy often result in violence, vigilantism, and unfair trials. Religious extremism and intolerance pose a significant challenge to the rule of law and human rights, requiring a delicate balance between freedom of expression and religious sensitivities.
12. **Women's Rights and Gender Discrimination:** Despite legal protections, women in Pakistan face systemic discrimination and violence, both within the justice system and society at large. Gender biases among law enforcement officials, judges, and legal practitioners can impede women's access to justice and fair treatment. Addressing gender disparities and ensuring women's rights are protected are crucial for strengthening the justice system.

Addressing these challenges requires concerted efforts from government institutions, civil society organizations, the legal profession, and the international community. Reforms aimed at strengthening the rule of law, promoting judicial independence, combating corruption, expanding access to justice, and protecting human rights are essential for building a more just and equitable society in Pakistan.

Need of the Constitution for a State

Today, most countries in the world have a constitution. While all democratic countries are likely to have a constitution, it is not necessary that all countries that have a constitution are democratic. There can be several purposes for drafting a constitution, they are:

Therefore, it can be understood that the constitution allows coordination and assurance. On the other hand, it can limit the powers of the government.

The need for a constitution in a state is fundamental to establishing the framework for governance, defining the rights and responsibilities of citizens, and ensuring the rule of law. Here's a detailed explanation of why a constitution is necessary:

1. **Legal Foundation:** A constitution serves as the supreme law of the land, providing the legal foundation upon which all other laws, regulations, and governmental actions are based. It establishes the framework for the organization and operation of the state, including the structure of government, the distribution of powers, and the procedures for making and enforcing laws.
2. **Protection of Rights:** Constitutions typically include a bill of rights or similar provisions that enumerate the fundamental rights and freedoms of citizens. These rights may encompass civil liberties, such as freedom of speech, religion, and assembly, as well as protections against discrimination, arbitrary arrest, and torture. By enshrining these rights in the constitution, they are safeguarded from infringement by the government or other individuals.
3. **Limitation of Government Power:** A constitution serves to limit the power of government and prevent abuses of authority. It establishes a system of checks and balances among the various branches of government, such as the executive, legislative, and judicial branches, to ensure that no single entity becomes too powerful. Additionally, constitutions may include mechanisms for judicial review, allowing the judiciary to review the constitutionality of laws and government actions.
4. **Stability and Continuity:** A constitution provides stability and continuity in governance by establishing the fundamental principles and rules that govern the state. It sets out the procedures for selecting leaders, making laws, and resolving disputes. This ensures that even as governments change, there is a consistent framework in place to guide decision-making and maintain order.
5. **Social Cohesion:** Constitutions often reflect the shared values, history, and aspirations of a society. By articulating these common principles, a constitution can promote social cohesion and national unity. It provides a sense of identity and belonging, helping to bind diverse communities together under a common set of principles and laws.
6. **Rule of Law:** A constitution helps to uphold the principle of the rule of law by establishing a framework within which laws are made and enforced. It ensures that laws apply equally to all individuals and that government actions are subject to legal scrutiny. This helps to prevent arbitrary exercise of power and promotes a fair and just society.
7. **Flexibility and Adaptability:** While constitutions are often seen as stable documents, they also have mechanisms for amendment or revision. This allows

them to adapt to changing circumstances and evolving societal norms. However, the process for amending the constitution is usually deliberately rigorous to ensure that changes are made thoughtfully and with broad consensus.

In summary, a constitution is necessary for a state because it provides the legal and institutional framework for governance, protects individual rights, limits government power, promotes stability and social cohesion, upholds the rule of law, and allows for adaptation to changing circumstances. It serves as the cornerstone of a democratic society, ensuring that government power is exercised responsibly and in accordance with the will and values of the people.

To provide a set of basic rules that allow for minimal coordination amongst members of society.

To specify who has the power to make decisions in a society. It decides how the government will be constituted.

To set some limits on what a government can impose on its citizens. These limits are fundamental in the sense that government may never trespass on them.

To enable the government to fulfil the aspirations of a society and create conditions for a just society.

Conclusion:

The constitution and justice system in Pakistan are pivotal to the nation's democratic fabric. While they have played a crucial role in shaping the country, addressing challenges such as political instability, corruption, case backlogs, human rights concerns, access to justice, and judicial activism is essential for their continued effectiveness. Strengthening these pillars requires a multifaceted approach, including a commitment to upholding the rule of law, promoting transparency, and ensuring the independence of the judiciary. Only through collective efforts can Pakistan aspire to realize the full potential of its constitutional and legal framework, fostering a just and equitable society for all.

The Functions of a Constitution

A constitution serves several crucial functions within a state, providing the framework for governance, defining the rights and responsibilities of citizens, and establishing the principles upon which the state operates. Here's a detailed explanation of the functions of a constitution:

1. **Establishing Government Structure:** One of the primary functions of a constitution is to establish the structure of government within the state. It delineates the separation of powers among the various branches of government, such as the executive, legislative, and judicial branches. The

constitution specifies the powers and responsibilities of each branch, as well as the mechanisms for their interaction and cooperation.

2. **Defining Powers and Limitations:** A constitution defines the powers of government and sets limitations on those powers to prevent abuses of authority. It outlines the authority of the government to enact laws, levy taxes, and regulate various aspects of public life. Additionally, it establishes checks and balances to ensure that no single branch or individual accumulates too much power.

3. **Protecting Individual Rights:** Constitutions typically include a bill of rights or similar provisions that enumerate the fundamental rights and freedoms of citizens. These rights may encompass civil liberties, such as freedom of speech, religion, and assembly, as well as protections against discrimination, arbitrary arrest, and torture. By enshrining these rights in the constitution, they are safeguarded from infringement by the government or other individuals.

4. **Establishing Legal Framework:** A constitution serves as the supreme law of the land, providing the legal framework upon which all other laws and regulations are based. It establishes the procedures for making and enforcing laws, as well as the mechanisms for resolving disputes and adjudicating legal matters. The constitution sets the standards for legal authority and legitimacy within the state.

5. **Promoting Stability and Continuity:** A constitution provides stability and continuity in governance by establishing the fundamental principles and rules that govern the state. It sets out the procedures for selecting leaders, making laws, and resolving disputes. This ensures that even as governments change, there is a consistent framework in place to guide decision-making and maintain order.

6. **Fostering Social Cohesion:** Constitutions often reflect the shared values, history, and aspirations of a society. By articulating these common principles, a constitution can promote social cohesion and national unity. It provides a sense of identity and belonging, helping to bind diverse communities together under a common set of principles and laws.

7. **Upholding the Rule of Law:** A constitution helps to uphold the principle of the rule of law by establishing a framework within which laws are made and enforced. It ensures that laws apply equally to all individuals and that government actions are subject to legal scrutiny. This helps to prevent arbitrary exercise of power and promotes a fair and just society.

8. **Facilitating Change and Adaptation:** While constitutions are often seen as stable documents, they also have mechanisms for amendment or revision. This allows them to adapt to changing circumstances and evolving societal norms. However, the process for amending the constitution is usually deliberately rigorous to ensure that changes are made thoughtfully and with broad consensus.

9. **Boundaries of the political community**: Constitutions can declare and define the boundaries of the political community. These boundaries can be territorial (the geographical borders of a state, as well as its claims to any other territory or extra-territorial rights) and personal (the definition of citizenship). Thus, a country's constitution often distinguishes between those who are inside and those who are outside the polity.

10. **Authority of the political community:** Constitutions can declare and define the nature and authority of the political community. They often declare the state's fundamental principles and assumptions, as well as where its sovereignty lies. For example, the French Constitution declares that 'France is an indivisible, secular, democratic and social Republic' and that 'National sovereignty belongs to the people, who exercise it through their representatives and by means of referendums' (Constitution of the Fifth French Republic). The Constitution of Ghana (1992) states that, 'The Sovereignty of Ghana resides in the people of Ghana in whose name and for whose welfare the powers of government are to be exercised'.

11. **Constitutions** can express the identity and values of a national community. As nation-building instruments, Constitutions may define the national flag, anthem, and other symbols, and may make proclamations about the values, history and identity of the nation.

12. **Constitutions c**an declare and define the rights and duties of citizens. Most constitutions include a declaration of fundamental rights applicable to citizens. At a minimum, these will include the basic civil liberties that are necessary for an open and democratic society (e.g. freedoms of thought, speech, association and assembly; due process of law and freedom from arbitrary arrest or unlawful punishment). Many constitutions go beyond this minimum to include social, economic, and cultural rights or the specific collective rights of minority communities. And some rights may apply to both citizens and non-citizens, such as the right to be free from torture or physical abuse.

13. **Political Institutions: Constitutions** can establish and regulate the political institutions of the community—defining the various institutions of government; prescribing their composition, powers and functions; and

regulating the relations between them. It is almost universal for constitutions to establish legislative, executive and judicial branches of government.

14. **Power Sharing:** Constitutions can divide or share power between different layers of government or sub-state communities. Many constitutions establish federal, quasi-federal or decentralized processes for the sharing of power between provinces, regions or other sub-state communities. These may be geographically defined (as in most federations, such as Argentina, Canada or India), or they may be defined by cultural or linguistic communities (e.g. the 1994 Constitution of Belgium, which establishes autonomous linguistic communities in addition to geographical regions).

15. **Religious Identity:** Constitutions can declare the official religious identity of the state and demarcate relationships between sacred and secular authorities. This is particularly important in societies where religious and national identities are interrelated, or where religious law has traditionally determined matters of personal status or the arbitration of disputes between citizens.

16. **Constitutions as legal instruments:** A constitution 'marries power with justice it makes the operation of power procedurally predictable, upholds the rule of law, and places limits on the arbitrariness of power. It is the supreme law of the land, and it provides the standards that ordinary statutes have to comply with.

17. **Constitutions as social declarations:** Constitutions often attempt, to varying degrees, to reflect and shape society—for example, by expressing the (existing or intended) common identity and aspirations of the people, or by proclaiming shared values and ideals.

18. **Constitutions as political instruments:** The constitution prescribes a country's decision-making institutions: constitutions 'identify the supreme power', 'distribute power in a way that leads to effective decision making' and 'provide a framework for continuing political struggle',

20. **Constitution as a Legal, Social and Political Document:** Constitutions in most of the countries are considered to balance the legal, political, and social functions in different ways.

Types of Constitution

There are two broad constitutional types can be identified:

(i) The procedural

(ii) The prescriptive.

The procedural constitution and the prescriptive constitution are two conceptual approaches to understanding the nature and function of a constitution. Each type emphasizes different aspects of constitutional governance. Let's delve into each in detail:

1. Procedural Constitution:

The procedural constitution focuses on the process and mechanisms through which governmental authority is exercised and decisions are made. It emphasizes the procedures, institutions, and rules that govern the functioning of the state. Key characteristics of a procedural constitution include:

i- **Emphasis on Process:** In a procedural constitution, the emphasis is placed on the procedures and rules that govern the exercise of governmental power rather than the substantive outcomes of those processes.

ii- **Separation of Powers:** Procedural constitutions typically emphasize the separation of powers among the various branches of government, such as the executive, legislative, and judicial branches. They establish mechanisms for checks and balances to prevent the concentration of power in any single branch.

iii- **Rule of Law:** Procedural constitutions prioritize the rule of law, ensuring that government actions are constrained by legal norms and procedures. They establish the framework for legal accountability and judicial review of governmental actions.

iv- **Protection of Rights Through Process:** While procedural constitutions may include provisions for protecting individual rights, their primary focus is on ensuring that those rights are upheld through fair and transparent processes. This includes procedural safeguards such as due process, access to justice, and the right to a fair trial.

v- **Flexibility and Adaptability:** Procedural constitutions are often more flexible and adaptable to changing circumstances compared to prescriptive constitutions. They provide a framework for resolving disputes and making decisions through established procedures, which can evolve over time through legislative or judicial interpretation.

2. Prescriptive Constitution

The prescriptive constitution focuses on prescribing specific principles, values, and policies that guide governmental action and decision-making. It emphasizes the substantive content of the constitution and seeks to establish a framework for governing based on predetermined norms and objectives. Key characteristics of a prescriptive constitution include:

i- **Emphasis on Substance:** In a prescriptive constitution, the emphasis is placed on prescribing specific policies, principles, and values that the government is expected to adhere to. This may include provisions related to social justice, economic development, human rights, or cultural identity.

ii- **Directive Principles:** Prescriptive constitutions often include provisions known as directive principles or fundamental objectives, which guide governmental action in specific areas such as social welfare, education, health, or environmental protection.

iii- **Protection of Substantive Rights:** While prescriptive constitutions may also include provisions for procedural rights, their primary focus is on protecting substantive rights and promoting certain values or objectives. This may include provisions for equality, social justice, or cultural diversity.

iv- **Less Flexibility:** Prescriptive constitutions are often less flexible and more resistant to change compared to procedural constitutions. They may require a higher threshold for amending or revising constitutional provisions, reflecting the importance placed on preserving certain fundamental principles and values.

v- **Guidance for Government Action:** Prescriptive constitutions provide guidance for government action by setting out specific policies and objectives that the government is expected to pursue. They may include provisions for social and economic development, environmental sustainability, or the protection of minority rights.

In summary, the functions of a constitution include establishing government structure, defining powers and limitations, protecting individual rights, establishing a legal framework, promoting stability and social cohesion, upholding the rule of law, and facilitating change and adaptation. It serves as the cornerstone of a democratic society, ensuring that government power is exercised responsibly and in accordance with the will and values of the people.

What Does a Constitution usually Contain?

Divisions: Most constitutions are divided and sub-divided into parts that may variously be known as titles, chapters, articles, sections, paragraphs or clauses.

Arrangement: Constitutions vary in the arrangement of their provisions, although it is now usual for principles and rights provisions to be placed in a separate section near the beginning of the text, for the main institutional provisions to be grouped in the middle of the text, and for independent institutions, miscellaneous provisions and amendments to be placed near the end of the text. The layout of a typical constitution might resemble the following:

(1) **Preamble:** a statement of the overarching motives and goals of the constitution-making exercise, sometimes referring to important historical events, national identity or values.

(2) **Preliminaries:** a declaration of sovereignty or of basic principles of government; the name and territory of the state; citizenship and franchise; state ideology, values or objectives.

(3) **Fundamental rights:** a list of rights, including their applicability, enforcement, limitations, suspension or restriction during a state of emergency.

(4) **Social and economic rights or policy directives.**

(5) **Parliament or legislature:** its structure, composition, terms of office, privileges, procedures, etc.

(6) **Head of state: the** method of selection, powers, and terms of office.

(7) **Government (in a parliamentary or semi-presidential system):** government formation rules, responsibility, and powers.

(8) **Judiciary:** Court system, judicial appointments, judicial independence, public prosecutors.

(9) **Sub-national government:** federal or devolved powers, local government.

(10) **Provisions for election and referendums.**

(11) Institutions of the so-called integrity branch (electoral commission, ombudsman, audit institution, etc.).

(12) **Security sector:** commander-in-chief, any restrictions on military power.

(13) **Other miscellaneous provisions:** special provisions for particular groups, language laws, particular institutions, etc.

(14) **Amendment procedures**, implementation timetable and transitionary provisions.

Democratic Constitutionalism as a Global Norm

Today, democracy is based on two principles: (i) representative government, which enables citizens to participate in government and hold the government accountable; (ii) protection of rights (especially due process, freedom of expression, and religious tolerance) that protect citizens from abuse of power.), these concepts gradually expand and deepen over time. In the 19th and early 20th centuries, often after lengthy and sometimes contentious debate, the right to citizenship was extended to all men and eventually to men and women. New forms of public participation, such as electoral processes and fair processes, were also

created or popularized in the 20th century. Similarly, in the 20th century, the canons of new laws generally became: (i) more were approved, including economic, social, cultural and environmental circulation, in addition to the civil and legal rights of the previous text; has more direct control, and independent judges play a greater role in supporting these policies. In the second half of the 20th century, it managed to gain a foothold in many parts of the world beyond the North Atlantic and Western European core. Human rights are now enshrined in international declarations and conventions, including the United Nations Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966). The list of countries considered to have a stable and free legal system now includes countries on every continent and in every region of the world.

The Constitution and the Constitutional Order

Despite the proliferation of nominally democratic constitutions, only a minority of states have so far succeeded in maintaining a lasting democratic constitutional order. There is little benefit in having a constitution that can be ignored with impunity or changed unilaterally by those in power, or one that is so framed that the democratic nature of the constitution can be undermined by ordinary laws or by exclusionary political practices. Likewise, if the rule of law is weak, such that the constitution is selectively applied, this will undermine the achievement of a constitutional order.

A constitutional order, in this sense, represents ‘a fundamental commitment to the norms and procedures of the constitution’, manifest in ‘behavior, practice, and internalization of norms.

The constitutional order is much broader than just the constitutional text. It can include customs, conventions, norms, traditions, administrative structures, party systems and judicial decisions that are integral to the practical workings of the constitution. This deep cultural internalization of a constitutional order is very hard to achieve (Ghai 2010). It is embodied, ultimately, in the political culture and in the ‘free and civic way of life’ of a people (Viroli 2001).

It is important to recognize at the outset that building a democratic constitutional order is a long- term process. Drafting the constitutional text is only a small part of the challenge; it is also necessary to establish institutions, procedures and rules for constitution-making (preparatory stage); to give legal effect to the constitution (ratification and adoption) and, crucially, to ensure that the spirit and the letter of the constitution are faithfully implemented. Each stage of this process depends for its success on the agreements reached at the preceding stage: a poorly conceived drafting process is unlikely to yield a successful text or to serve as the basis for a viable, stable and legitimate constitutional order.

5.2 TYPES OF CONSTITUTIONS

There are different types of Constitution; these are the

1. Written Constitution or Unwritten. 2. Rigid or Flexible, 3. Unitary or Federal,

Attributes of Written Constitution

A written constitution is a formal document that outlines the fundamental principles, structures, and procedures of government. Unlike an unwritten or customary constitution, which relies on a combination of statutes, judicial decisions, and historical documents, a written constitution is codified in a single authoritative document. Here are the key attributes of a written constitution:

1. **Formal Document:** A written constitution exists as a formal, written document that is typically codified in a single text. It may be drafted and adopted through a formal process, such as a constitutional convention, referendum, or constituent or legislative assembly. This formal codification provides clarity and certainty about the fundamental principles and rules of governance.
2. **Supreme Law of the Land:** A written constitution is considered the supreme law of the land within a particular political jurisdiction. It holds a higher legal authority than ordinary laws, regulations, or judicial decisions. Any law or action that contradicts the provisions of the constitution can be declared null and void by the judiciary through the process of judicial review.
3. **Comprehensive Scope:** A written constitution typically addresses a wide range of issues related to governance, including the structure and powers of government institutions, the division of powers between different levels of government (e.g., federal, state, and local), the protection of individual rights and freedoms, electoral processes, and the amendment procedure.
4. **Rigidity and Stability:** Written constitutions are often characterized by a degree of rigidity and stability. They typically require a formal and often rigorous process for amendment or revision, which may involve obtaining supermajorities in the legislature, holding a referendum, or convening a constitutional convention. This rigidity helps to ensure that changes to the constitution are made thoughtfully and with broad consensus.
5. **Clarity and Accessibility:** Because a written constitution is codified in a single document, it provides clarity and accessibility regarding the fundamental principles and rules of governance. Citizens, government officials, and the judiciary can easily refer to the text of the constitution to understand their rights, obligations, and the structure of government.

6. **Judicial Interpretation:** Written constitutions often require interpretation by the judiciary to determine their meaning and application in specific cases. Judicial review allows courts to interpret constitutional provisions and resolve disputes regarding their constitutionality. This process helps to ensure consistency and adherence to constitutional principles in the application of laws and government actions.

7. **Protection of Rights:** Written constitutions typically include provisions for protecting individual rights and freedoms. These may include a bill of rights or similar provisions that enumerate specific rights and prohibit government infringement upon them. The inclusion of such protections helps to safeguard citizens' liberties and ensure government accountability.

8. **Symbolic Value:** A written constitution often holds symbolic value as a representation of a nation's political identity, history, and values. It serves as a foundational document that embodies the collective aspirations and principles of a society, reflecting its commitment to democratic governance, the rule of law, and fundamental rights.

In summary, a written constitution is characterized by its formal codification, supremacy as the highest law of the land, comprehensive scope, rigidity and stability, clarity and accessibility, reliance on judicial interpretation, protection of rights, and symbolic value as a foundational document of governance. These attributes contribute to its importance in establishing the framework for democratic governance and protecting individual liberties within a political community.

Attributes of Unwritten Constitution

An unwritten constitution is a system of fundamental principles, customs, conventions, and laws that govern a state, but which are not codified in a single authoritative document. Instead, an unwritten constitution evolves over time through a combination of historical documents, statutes, judicial decisions, and customary practices. Here are the key attributes of an unwritten constitution:

1. **Evolutionary Nature:** Unlike a written constitution, which is codified in a single document, an unwritten constitution evolves over time through historical precedent, legal decisions, and societal norms. It is shaped by the accumulation of laws, customs, and practices that have developed over centuries.

2. **Flexible and Adaptive: O**ne of the primary attributes of an unwritten constitution is its flexibility and adaptability. Because it is not bound by a single formal document, an unwritten constitution can evolve in response to changing circumstances, societal norms, and political developments. This

flexibility allows the constitution to remain relevant and responsive to the needs of society.

3. **Lack of Formal Codification:** Unlike a written constitution, which is codified in a single text, an unwritten constitution lacks formal codification. Instead, it consists of a diverse range of sources, including statutes, judicial decisions, conventions, traditions, and historical documents. These sources collectively form the basis of constitutional law and governance.

4. **Supremacy of Legal Precedent:** In an unwritten constitution, legal precedent plays a significant role in shaping constitutional law. Judicial decisions, particularly those of higher courts, establish legal precedents that guide future interpretations of the law and governance practices. These precedents help to maintain consistency and predictability in the application of constitutional principles.

5. **Conventions and Customs:** Unwritten constitutions often rely heavily on conventions, customs, and traditions to govern the behavior of government officials and institutions. Conventions are unwritten rules or norms that are followed out of tradition or customary practice, rather than being legally binding. They help to regulate the conduct of political actors and maintain stability in governance.

6. **Political Flexibility:** The lack of formal codification in an unwritten constitution allows for greater political flexibility and pragmatism in governance. Political actors can adapt to changing circumstances and negotiate compromises without being constrained by rigid constitutional provisions. This flexibility can be advantageous in times of crisis or political transition.

7. **Historical Roots:** Unwritten constitutions often have deep historical roots, reflecting the unique political, cultural, and legal traditions of a particular society. Historical documents, such as charters, treaties, and foundational laws, may provide insights into the historical development of constitutional principles and practices.

8. **Constitutional Monarchy:** In some cases, an unwritten constitution may coexist with a system of constitutional monarchy, where the monarchy's powers are constrained by established conventions and legal norms. In such systems, the monarchy acts as a symbolic figurehead, while political power is vested in elected representatives and government institutions.

In summary, an unwritten constitution is characterized by its evolutionary nature, flexibility and adaptability, lack of formal codification, reliance on legal precedent and conventions, political flexibility, historical roots, and potential

coexistence with constitutional monarchy. Despite its lack of a single authoritative document, an unwritten constitution provides the framework for governance and the protection of rights within a state.

Attributes of Rigid Constitution

A rigid constitution refers to a constitutional framework that is relatively difficult to amend or revise. Rigid constitutions typically require a special and often rigorous process for making changes to their provisions, ensuring that alterations to fundamental principles are made deliberately and with broad consensus. Here are the key attributes of a rigid constitution:

1. **Formal Amendment Process:** A rigid constitution typically includes a formal and often complex procedure for amending or revising its provisions. This process may require the proposal of amendments by a specified majority in the legislature, followed by ratification by another body or through a referendum. The formal amendment process ensures that changes to the constitution are made intentionally and with careful consideration.

2. **Supermajority Requirement:** Rigid constitutions often require a supermajority or qualified majority to approve amendments. This means that amendments must garner support from a larger proportion of legislators or voters than is typically required for ordinary legislation. Supermajority requirements make it more challenging to amend the constitution, as changes must have broad-based support.

3. **Entrenchment of Key Provisions:** Rigid constitutions frequently include provisions that are considered fundamental or "entrenched," meaning they are protected from easy amendment. These may include provisions related to the separation of powers, the protection of fundamental rights, the structure of government, or federalism. Entrenchment ensures that certain core principles of the constitution cannot be altered without meeting stringent requirements.

4. **Judicial Review:** In systems with a rigid constitution, judicial review plays a crucial role in interpreting and enforcing constitutional provisions. Courts have the authority to review the constitutionality of laws, executive actions, and governmental policies, ensuring that they comply with the principles and requirements of the Constitution. Judicial review helps to safeguard the integrity of the Constitution and prevent unconstitutional actions.

5. **Stability and Continuity:** The rigidity of a constitution provides stability and continuity in governance by making it difficult to effect sudden or drastic changes to fundamental principles. This ensures that the basic framework of government remains intact over time, even as political leadership and

circumstances evolve. Stability and continuity are essential for maintaining public confidence in the constitutional order.

6. **Protection of Fundamental Rights:** Rigid constitutions often include provisions for the protection of fundamental rights and freedoms. These rights are typically enshrined in the Constitution and are not easily amendable, ensuring that they remain inviolable and immutable. The protection of fundamental rights helps to safeguard individual liberties and prevent abuses of governmental power.
7. **Popular Ratification:** In some cases, amendments to a rigid constitution may require ratification by the electorate through a referendum. Popular ratification ensures that amendments have broad-based support among the citizenry, reflecting the principle of popular sovereignty. This adds an additional layer of legitimacy to constitutional changes.
8. **Difficulty of Amendment:** Overall, the primary attribute of a rigid constitution is the difficulty of amending its provisions. The formal amendment process, supermajority requirements, entrenchment of key provisions, and judicial review all contribute to making constitutional amendments a challenging and deliberate process.

In summary, a rigid constitution is characterized by its formal amendment process, supermajority requirements, entrenchment of key provisions, reliance on judicial review, stability and continuity, protection of fundamental rights, popular ratification, and the difficulty of amendment. These attributes help to ensure that changes to the constitution are made thoughtfully and with broad consensus, preserving the integrity of the constitutional order.

Attributes of Flexible Constitution

A flexible constitution refers to a constitutional framework that is relatively easy to amend or revise. Unlike a rigid constitution, which requires a formal and often rigorous process for making changes to its provisions, a flexible constitution allows for amendments to be made more easily and with fewer procedural hurdles. Here are the key attributes of a flexible constitution:

1. **Simple Amendment Process:** One of the primary attributes of a flexible constitution is its simple and straightforward amendment process. Amendments to the constitution can typically be proposed and adopted through the regular legislative process, without the need for special procedures or supermajority requirements. This makes it easier for lawmakers to introduce and enact changes to constitutional provisions.
2. **Majority Rule:** In a flexible constitution, amendments are typically adopted by a simple majority of the legislature or other designated decision-making

body. Unlike a rigid constitution, where a supermajority or qualified majority is often required, a flexible constitution allows for changes to be made with the support of a simple majority of lawmakers.

3. **Absence of Entrenchment:** Flexible constitutions do not typically include provisions that are considered "entrenched" or protected from easy amendment. Instead, all provisions of the constitution are subject to amendment through the same legislative process. This means that no aspect of the constitution is immune to change, and all provisions can be amended or repealed as needed.

4. **Limited Role of Judicial Review:** In systems with a flexible constitution, the role of judicial review may be limited in comparison to systems with a rigid constitution. While courts still have the authority to interpret and apply constitutional provisions, they may have less discretion to strike down laws or government actions on constitutional grounds. This allows for greater flexibility in the interpretation and application of the constitution.

5. **Adaptability to Changing Circumstances:** The flexibility of a constitution allows it to adapt more easily to changing circumstances, societal norms, and political developments. This enables lawmakers to respond quickly to emerging challenges or opportunities without being constrained by rigid constitutional provisions. The ability to amend the constitution readily ensures that it remains relevant and effective over time.

6. **Pragmatism and Expediency:** A flexible constitution reflects a pragmatic approach to governance, prioritizing practical solutions and expediency over strict adherence to constitutional principles. Lawmakers can amend the constitution as needed to address pressing issues or achieve policy goals without being hindered by procedural barriers or legal formalities.

7. **Less Stability and Predictability:** While a flexible constitution allows for greater adaptability and responsiveness, it may also result in less stability and predictability in governance. Frequent amendments to the constitution can create uncertainty about the legal framework and undermine public confidence in the constitutional order. Additionally, changes to constitutional provisions may be subject to political maneuvering and partisan interests.

8. **Reflective of Democratic Principles:** A flexible constitution is often seen as reflective of democratic principles, as it allows for the expression of popular will and the responsiveness of government to the needs and preferences of the electorate. The ease of amending the constitution ensures that it remains a dynamic and evolving document that reflects the changing values and priorities of society.

In summary, a flexible constitution is characterized by its simple amendment process, reliance on majority rule, absence of entrenchment, limited role of judicial review, and adaptability to changing circumstances, pragmatism and expediency, potential for less stability and predictability, and reflection of democratic principles. These attributes contribute to a constitutional framework that is responsive, dynamic, and reflective of the evolving needs and values of society.

Attributes of the Unitary Constitution

A unitary constitution is a type of constitutional arrangement where sovereignty is vested in a single, central authority, and subnational entities such as regions, provinces, or states derive their powers from the central government. Here are the key attributes of a unitary constitution:

1. **Centralized Sovereignty:** In a unitary constitution, ultimate authority and sovereignty reside in the central government. The central government has the power to create, modify, or abolish subnational entities and to allocate powers to them as it sees fit. Subnational entities derive their authority from the central government and are subject to its laws and directives.
2. **Unified Legal System:** A unitary constitution establishes a unified legal system throughout the country. Laws, regulations, and policies are promulgated by the central government and are applicable uniformly across all territories within the state. Subnational entities may have limited legislative powers, but their authority is subordinate to that of the central government.
3. **Administrative Uniformity:** Unitary constitutions typically promote administrative uniformity by centralizing administrative functions and decision-making processes. Governmental agencies and departments operate under the authority of the central government and implement policies and programs on a nationwide basis. This ensures consistency and efficiency in the delivery of public services and administration of government affairs.
4. **Limited Autonomy for Subnational Entities:** While subnational entities may exist within a unitary state, their powers and autonomy are limited by the central government. Subnational governments may have authority over certain local matters, such as education, healthcare, or transportation, but their powers are delegated and subject to the control of the central government. The central government may intervene in subnational affairs to ensure compliance with national policies or to address perceived deficiencies in governance.
5. **Flexibility and Adaptability:** Unitary constitutions are often flexible and adaptable to changing circumstances and political preferences. The central government retains the authority to amend the constitution and to enact laws that modify the distribution of powers or administrative structures. This

allows the constitution to evolve in response to societal needs, political dynamics, or shifts in governance priorities.

6. **Ease of Governance:** The centralized nature of a unitary constitution facilitates ease of governance by simplifying decision-making processes and reducing administrative complexities. The central government has the authority to coordinate policies and programs on a national scale, without the need to negotiate with multiple subnational entities. This can lead to greater efficiency in governance and resource allocation.

7. **Political Stability:** Unitary constitutions often contribute to political stability by minimizing tensions and conflicts between different levels of government. The centralized structure of government reduces the likelihood of intergovernmental disputes over jurisdictional matters or conflicting policies. This can promote unity and cohesion within the state, especially in ethnically or culturally diverse societies.

8. **Uniformity of Rights and Obligations:** In a unitary constitution, rights and obligations are typically uniform across all territories within the state. Citizens enjoy the same rights and freedoms regardless of their place of residence, and legal obligations apply uniformly to all residents. This promotes equality and consistency in the application of laws and ensures that all citizens are subject to the same legal standards.

In summary, a unitary constitution is characterized by centralized sovereignty, a unified legal system, administrative uniformity, limited autonomy for subnational entities, flexibility and adaptability, ease of governance, political stability, and uniformity of rights and obligations. These attributes contribute to a constitutional framework that emphasizes national unity, efficiency in governance, and the primacy of the central government in decision-making and administration.

Attributes of the Federal Constitution

A federal constitution is a type of constitutional arrangement in which sovereignty is divided between a central (national) government and subnational entities, such as states, provinces, or regions like Pakistan. Here are the key attributes of a federal constitution:

1. Division of Powers:

Dual Governmental Structure: One of the defining attributes of a federal constitution is the division of powers between the central (national) government and the subnational entities (states, provinces, or regions). Both levels of government have their own spheres of authority.

Enumerated Powers: A federal constitution typically lists the powers and responsibilities of each level of government. The central government has authority over issues of national importance, while subnational entities have control over local matters.

Reserved Powers: A federal constitution often reserves certain powers exclusively to the central government, such as defense, foreign policy, and currency, while granting other powers to the subnational entities, such as education, transportation, and local governance.

Concurrent Powers: Some powers may be shared between the central government and the subnational entities. These concurrent powers include taxation, law enforcement, and environmental regulation. However, in case of a conflict, the central government's law generally takes precedence.

2. Supremacy Clause:

Hierarchy of Laws: A federal constitution typically includes a supremacy clause, which establishes that the constitution and laws enacted by the central government are the supreme law of the land. This means that in case of a conflict between federal and state laws, federal law prevails.

Judicial Review: The judiciary, particularly the federal courts, have the authority to interpret and enforce the constitution, ensuring that laws enacted by the central and sub-national entities are in compliance with the federal constitution.

3. Bicameral Legislature:

Representation: Federal constitutions often establish a bicameral legislature, with two separate chambers: one representing the national government and the other representing the states or subnational entities.

Equal Representation and Representation by Population: The upper chamber typically provides equal representation for each subnational entity (e.g., the Senate in the United States and in Pakistan), while the lower chamber is based on population (e.g., the House of Representatives in the United States and national Assembly in Pakistan).

4. Autonomy of Sub-National Entities:

Powers of Sub-National Entities: Sub-national entities within a federal system have a degree of autonomy to govern their internal affairs. They have their own constitutions, legislative bodies, and executives, and they are responsible for the administration of matters not assigned to the central government.

Equality of federating units : In federal systems, sub-national entities are typically considered equal to one another. Regardless of size or population, each federating unit

like in Pakistan has equal representation in the upper house of the legislature. This equal representation ensures that smaller states have a voice in the federal government.

5. Amendment Process:

Formal Amendment Process: Federal constitutions typically include a formal amendment process, which outlines how the constitution can be amended or revised. This process often requires approval by both the central government and a specified number or percentage of the subnational entities.

Rigidity: The amendment process in federal constitutions is often more rigid than in unitary constitutions but less rigid than in rigid unitary constitutions. It is designed to strike a balance between ensuring the stability of the federal system and allowing for necessary changes.

6. Judicial Review:

Role of the Judiciary: In federal systems, the judiciary, particularly the federal courts, play a crucial role in interpreting and enforcing the constitution. They ensure that laws enacted by both the central and subnational entities are in compliance with the federal constitution. They also resolve disputes between the central government and subnational entities regarding the interpretation or application of the constitution.

7. Flexibility and Adaptability:

Amend-ability: While more rigid than unitary constitutions, federal constitutions are still more flexible than rigid constitutions. This flexibility allows the constitution to adapt to changing circumstances and evolving societal norms.

Provincial Rights: The flexibility allows subnational entities to have some degree of flexibility in governing themselves, allowing for better representation of regional needs and values.

8. Balancing National Unity and Local Autonomy:

Balanced Governance: Federal constitutions are designed to balance national unity and local autonomy. They ensure that both the central government and subnational entities have the power to govern effectively while still preserving the unity of the state.

Unity and Diversity: Federal constitutions allow for the accommodation of regional differences and the expression of local identities while maintaining a unified national identity and overarching governmental structure.

In summary, a federal constitution is characterized by its division of powers, supremacy clause, bicameral legislature, autonomy of subnational entities, formal

amendment process, judicial review, flexibility and adaptability, and the balance between national unity and local autonomy. These attributes contribute to a constitutional framework that ensures the effective governance of the state while accommodating regional differences and preserving the unity of the nation.

Parliamentary or Presidential

A parliamentary system is a system of government in which the ministers of the executive branch get their democratic legitimacy from the legislature and are accountable to that body, such that the executive and legislative branches are intertwined. In such a system, the head of government acts as de facto chief executive and chief legislator. Parliamentary systems have no clear-cut separation of powers between the executive and legislative branches. A presidential system is a system of government where an executive branch is led by a president who serves as both head of state and head of government. The executive branch is the part of government that has sole authority and responsibility for the daily administration of the state.

Constitutions and Democracy

The Federal Constitution is a legal system that has the power to distinguish between the central government (national) and local entities (such as states, provinces, or territories). The main features of federal law are:

1. Separation of Powers:

One of the features of the federal constitution is the central (national) government and local organization (state, province or territory). Both levels of management have their own areas of authority. While the central government has authority over matters of national importance, local organizations have local control. It also gives other powers to local organizations such as education, transportation and local government. This balanced power includes taxation, regulation, and environmental control. But when there is a conflict, the central government's policies usually prevail.

2. Supremacy Clause:

Federal law often contains statements stating that the constitution and laws established by the government are the law of the land. This means that if there is a conflict between federal law and state law, federal law will prevail. and laws enacted by local agencies are subject to federal law.

3. Bicameral Legislature:

Federal legislatures are generally bicameral legislatures, with two separate houses: one representing the government at the national level and elsewhere on behalf of state or local entities.

4. Equal Representation and Representative Representatives:

The upper house generally provides equal representation to all sub-national bodies (e.g. the US Senate), while the lower house is based on population (e.g. the US House of Representatives).

5. Autonomy of Local Agencies:

Local units in the federal government have some level of control over their internal affairs. They have their own laws, regulations and leaders, and are responsible for managing matters not delegated to the central government. Each state or province, regardless of the number of people or citizens, has equal representation in the upper house of the legislature. This equal representation ensures that smaller states have a say in government.

6. Amendment Procedures:

Federal Laws often contain amendment procedures that specify how the law is to be amended or changed. These procedures usually require the approval of some or a majority of the central government and local authorities. Its purpose is to strike a balance between ensuring the stability of the government and allowing necessary changes.

7. Judicial Review:

In federal law, the judiciary, especially the federal courts, plays an important role in the interpretation and implementation of the Constitution. They ensure that laws made by central and local authorities comply with federal laws. They also resolve disputes between the central government and local governments regarding the interpretation or application of laws.

8. Flexibility or Adaptability:

Although the Federal Law is stricter than the Private Law, it is still more flexible than the Solid Law. This change allows the law to adapt to a changing and changing culture. Therefore, we better represent the needs and interests of the region.

9. Balanced National Unity with Local Autonomy:

The Federal Constitution aims to establish a balance between national unity and local autonomy. They ensure that the central government and local authorities have good governance when running the country. These qualities help create a legal system that ensures good governance of the country while maintaining regional diversity and maintaining national unity. In providing fundamental rules about the source, transfer, accountability and use of political power in a society, a constitution introduces a separation between the permanent, enduring institutions of the state,

on the one hand, and the incumbent government, on the other. The constitution ensures that the government does not own the state: it simply manages the state, under the authority of higher laws, on behalf of citizens.

In this sense, constitutionalism is the opposite of despotism. Despotism is a system of government in which the governing authorities are a law unto themselves. Many states around the world have historically been despotic. They are not bound by any higher law that restricts how they rule, for example, by protecting the fundamental rights of the citizens or by ensuring their accountability to the people. As a result, despots govern only for their own good, or for that of a privileged minority who support the ruling class, and not for the common good of all citizens.

Not all despotic governments are intolerably oppressive. In practice, despotism may be self- restraining, and outright oppression may be restricted to those who visibly oppose or threaten the rulers or their interests. Nevertheless, the defining characteristic of despotism is that it is arbitrary.

Despotic rulers—whether an all-powerful monarch, a sovereign parliament, a military junta or an authoritarian president—can make laws, and can determine right and wrong, through their own unilateral decisions, without requiring broader consent or public approval, without being restrained by balancing institutions and without being held to account by the people.

In choosing to adopt constitutional government, people are choosing to say no to despotism and to the precariousness of living under rulers who can act arbitrarily. They are choosing to acknowledge that certain rights, principles, values, institutions and processes are too important to depend on the arbitrary will of those in power: they should be entrenched in a way that makes them binding on the government itself. In such a system, the people live under a government of universal rules that are based on broad public consent, and they have freedom from the arbitrary acts of the rulers.

Democratic Constitutionalism as a Global Norm

Modern democratic constitutionalism is based on two principles: (i) representative government, enabling citizens to participate in public affairs and hold their government to account; and (ii) the protection of rights (especially the due process of law, freedom of speech and religious tolerance), through which citizens are insulated from abuses of power.

These principles of representative government and the protection of rights can be expressed in terms of inclusivity and contestation (Dahl 1973), notions that have gradually broadened and deepened over time. During the 19th and early 20th centuries, the right to participate in public affairs was extended, usually after long and sometimes violent struggles, to all men, and finally to women as well. New

forms of public participation were also developed or popularized during the 20th century, such as proportional electoral systems and mechanisms of direct democracy. Similarly, during the 20th century, the rights provisions of new constitutions typically became: (i) more expansive, with economic, social, cultural and environmental rights being increasingly recognized in addition to the basic civil and legal rights of earlier texts; and (ii) more directly enforceable, with an expanded role for independent judiciaries in upholding them.

Modern democratic constitutionalism has spread around the world in subsequent waves of democratization. During the second half of the 20th century, it successfully took root in many parts of the world beyond its old North Atlantic and Western European core. Democratic constitutionalism is now embedded in the most widely recognized international declarations and conventions, including the UN Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966). The list of states with credible claims to have a stable and sustainable democratic constitutional order now includes countries on all continents and in all regions of the world.

Whatever it once was, democratic constitutionalism is now a universal value, the benefits of which can, at least potentially, be shared by all of humanity (Sen 1999). A Constitution for Everyone: Elite Accommodation, Inclusive Bargains and Pre-Commitment Establishing a democratic constitutional order is not easy. Throughout history, only a minority of states have succeeded. Those who set themselves the task of establishing such a constitutional order must be mindful of the social and political, as well as the technical and legal, challenges they face. In almost every human society, there are distinctions of wealth and power. In most societies, two broad groups can be identified. First, there is a relatively small number of people who possess both wealth and power in abundance. Second, there will be a much larger number of people who do not possess wealth or power in abundance. These are the non-elites. What distinguishes the elite from the non-elite, in constitution-building terms, is access to economic and political power: elites' rule, non-elites are ruled.

A society is trying to do something extraordinary by creating a democratic constitution: establishing rules for its leaders. This means, at the very least, that the ruling elite is constrained by rules approved by the non-elite and is responsible for the actions of the non-elite. The right of people to regularly choose between candidates ensures that key decision-makers are at least accountable and working for the authorities. Leaders who are constantly dissatisfied with the majority will be replaced by candidates in the next election. The elite are the believers of the people. Many visions of democracy go further, seeking to control power through policies that blur the distinction between elites and non-elites and reduce people working for the people's representatives.

In the competition for elite rule, the democratic regime will face resistance from elites who are jealous of their own power, rights and interests, or at least put their power, rights and dissatisfaction with money and status at the top. . Those who have wealth, power, connections, control resources, and hold social positions are often those who receive or hold Power; it is usually based on management control and will probably serve them well. Is eroded by turning to society. If left unchecked, these individuals may encourage a return to government policies or attempt to undermine the democratic regime so that the elites cannot stop their behavior (i.e., the system may suffer).

To reach agreement, elites and other important groups (if they must be persuaded not to veto political system legislation or obstruct its passage) must deal with specific areas where their interests are greatest. important. One way to obtain this benefit is to legally enforce some of its existing rights, or at least not to cause it. Interests that need to be taken into account in the current context mostly include former government members, business oligarchs and those with connections to the security services.

These include foreign actors such as powerful donor countries or large foreign investors. In this context, the law can be seen as an attempt to bring harmony into the framework of the new law-making process in order to have relative security without fear of attack. These interventions may include immunity from prosecution for past violations and, in some cases, participation in future policy development. For example, in Chile, former dictator Augusto Pinochet was elected to the Senate for life after the restoration of independence; this was a position that allowed him to continue to influence those affected and be protected from prosecution. In Portugal, the 1976 constitution gave the military broad veto powers over the transition to democracy; This power was not removed from the constitution until 1982. efficiency and quality. For example, the 1787 U.S. Constitution protected slavery rights in the South, but many acknowledged the morality of this plan. Too much attention will prevent the country from achieving democratic rule; It creates oligarchic rule (meaning a small amount of authority that is not limited by or accountable to the people). In some cases, rival elites will cause self-destructive conflict among themselves and cling to democratic policies as a way to reduce and contain conflict. In other cases, elites may be weakened by the transfer of land, wealth, and labor ability to non-elites; In this case, he may think that sharing power with non-elites is the best way to protect their most important interests. Sometimes this process occurs in a complex and overlapping way: in this case, law can be seen as a debate between elites and between elites and non-elite important figures. Through these discussions, power is shared throughout society.

Sometimes a single law is motivated by selfishness and selfishness as a person or a political party retains power so that they can enjoy the benefits of public service

and manage the state's own resources. Conflicting laws are proposed by generous and well-intentioned good people, often with disappointment, in the hope that the new law will recognize their vision of a better society. The problem with this approach is that it does not include diversity: different people have different visions for a better society, and many of the arguments that arise from these differences are very different and difficult to resolve. In fact, it is difficult for people who act out of thoughts, feelings or religious beliefs to, firstly, remember that what is obvious and right for them will be difficult for others, and secondly, to ask democratically. In society, people who have different views and live according to different values are also citizens and have the right to unite, be patient and teach.

This does not mean that the Constitution should avoid all discussion of what is important, or that it should not include all important issues: both process and procedure have their place, and so long as there is general public agreement. There may be cases that involve important clauses or even amendments as the basis for approval. However, this does mean that a Constitutional process that allows for diversity of interests and interests focuses on the area where agreements can be made and strives to have as much legal debate as possible will be beneficial.

5.3 PROCEDURE AND STRUCTURE OF ADOPTION OF THE CONSTITUTION

A constitution in any country of the world is the fundamental document upon which all other laws of a country are based. In almost all countries of the world, the constitution is available in the written form except in a few countries like United Kingdom where the constitution is considered as unwritten. In fact, it is largely written, but in different documents.

It is a comparatively rare chance for a legislator to be openly involved in the drafting and adoption of a constitution. However, there is a rising development that the elected representatives remained keenly involved in the drafting of the constitution. The objectives of constitution building are as under:

1. The reconciling of the conflicting groups.
2. The strengthening of national unity.
3. The empowering of people and to prepare them to participate in public life,
4. The elaboration of national goals.
5. The promotion of knowledge and enhancement in legitimacy of the state.

Sometimes, the drafting of a constitution may occur under exceptional situations. The situation may be as the independence of a nation or afterward a rebellion or political transition from one form of government to another. The amendments in a constitution are not usual; however, any change in the constitution of a country should be made with great care.

Pakistan was established in 1947 as a sovereign (an independent territorial republic or kingdom) state.

The first Constitution of Pakistan was promulgated in the country in 1956 and Pakistan Unfortunately, it was abolished following the military coup in 1958. In

1962, Pakistan's second constitution was approved, executive power was vested to the president. The constituition provided the presidential form of government while the office of prime minister was removed. President Ayub Khan established the military's influence in politics. The 1962 Constitution was suspended in 1969 by enforcement of martial rule.

The following constitution of Pakistan was promulgated in 1973. The Constitution of Pakistan 1973 also established some institutions, such as the Sharia Court and the Council of Islamic Ideology, to guide the interpretation and implementation of Islam. Following another coup in 1977, the constitution was suspended until it was "reorganized" in 1985, but power was transferred from the parliament to the president by a constitutional amendment. Another amendment (17th) in 2004 continued this amendment, but the 18th Amendment in 2010 reduced the powers of the president, returning the government to a democratic republic.

Parliament cannot make laws that are unconstitutional or contrary to the Constitution; Unlike the 1956 and pre-1962 legal documents, the Constitution itself can be amended by a two-thirds majority in both houses of Parliament.

5.4 PROCEDURE OF CONSTITUTIONAL AMENDMENT IN PAKISTAN

Pakistan has two supreme institutions or houses to amend in constitution. The upper house is the senate while lower house is the National Assembly. Each House has to pass the Bill with two thirds majority of the total membership of that House. If 2nd House passes the Bill with amendments it is referred back to the House in which it originated and if that House agrees to those amendments with two thirds majority, it is sent to the President for assent. The bill is reproduced in the following lines.

If the Bill is passed by the Senate with amendments, it shall be reconsidered by the National Assembly; and if the Bill as amended by the Senate is passed by the Assembly by the votes of not less than two-thirds of the total membership of the Assembly, it shall be presented to the President for assent.

1. Constitutional amendment Bill which seeks altering the limits of a Province shall also be passed by the Provincial Assembly of that Province by the votes of not less than two thirds of its total membership.

2. Adaptation of the Constitution

(1) The National Assembly and the Senate, sitting jointly for the purposes of this Chapter, shall be the Constitutional Assembly.

(2) The Constitutional Assembly shall draft and adopt a new constitutional text in accordance with this Chapter.

a. The first sitting of the Constituent Assembly shall be convened by the President of the Senate not later than seven days as from the first sitting of the Senate under this Constitution.
b. Any subsequent sittings of the Constitutional Assembly shall be convened by the Chairperson of the Constitutional Assembly after consultation with the Speaker and the President of the Senate.

(4) Subject to the rules and orders contemplated in section 70 and save where clearly inappropriate, sections 55 and 56 and the provisions of this Constitution with regard to joint sittings of the National Assembly and the Senate shall apply mutatis mutandis in respect of the Constitutional Assembly.

Chairperson and Deputy Chairperson

(1) At its first sitting and before proceeding to dispatch any other business, the Constituent Assembly, with the President of the Senate presiding, shall elect one of the members of the Constitutional Assembly to be the Chairperson and another of its members to be the Deputy Chairperson of the Constitutional Assembly.
(2) The provisions of Schedule 5 shall apply mutatis mutandis in respect of the election of the Chairperson and the Deputy Chairperson of the Constitutional Assembly.
(3) The Chairperson shall be vested with all powers and functions assigned to him or her under this Constitution, an Act of Parliament and the rules and orders.
(4) Section 49 (4) to (10) shall apply mutatis mutandis in respect of the Chairperson and Deputy Chairperson of the Constitutional Assembly, and in any such application references in the said sections to the Senate and a senator shall be construed as references to the Constitutional Assembly and a member of the Constitutional Assembly, respectively.

Rules and orders

(1) The Constitutional Assembly may make rules and orders in connection with the conduct of its business and proceedings.

(2) The provisions of section 58 shall apply mutatis mutandis in respect of the Constitutional Assembly.

Self-Assessment Questions:

1. Define the constitution and write its importance in the society.
2. Describe the various types of the constitutions implemented or adopted.
3. Discuss the procedure and structure of the adoption of the Constitution in detail.
4. Describe the procedure of constitutional amendment in Pakistan.

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Unit - 06

HISTORY OF CONSTITUTIONAL DEVELOPMENT IN PAKISTAN

Written By:
Seema Haris

Reviewed By:
Prof. Dr. Abdul Rauf

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INTRODUCTION

This unit enlightens the students of Pakistan studies about the constitutional development in Pakistan. The achievement of Pakistan for Indian Muslims was the culmination of their relentless struggle. Following the partition of the subcontinent, the emerging Muslim state encountered numerous challenges. During those turbulent times, the pivotal role played by the first Governor-General of Pakistan was remarkable. Mr. Muhammad Ali Jinnah was bestowed with the title of Quaid-i-Azam Muhammad Ali shortly after independence. Unfortunately, it was deeply regrettable that the Pakistani nation lost Jinnah just one year after the country's inception.

Following Jinnah's demise, the most pressing political issue was the formulation of the constitution for the nation. In this regard, a significant stride was taken by Mr. Liaquat Ali Khan, the Prime Minister at the time. This milestone was the approval of the Objectives Resolution by the Constituent Assembly.

The Era of 1960s brought two important factors for the nation; first, the constitution of 1962 and the presidential elections of 1964 . The war of 1965 with India ended with the successful defence of the country but was the start of downfall for Ayub Khan.

The unit discusses the political and constitutional development since the establishment of Pakistan,reasons of insecurities of the Bengalis living in their own country , the reasons of war of 1971, the legal framework order and dismemberment of Pakistan. The author tried to cover the important issues of the politics as well as the rule of military during this period.

OBJECTIVES

After reading this unit, you will be able to understand:

1. the background behind the constitutional development of Pakistan.
2. the Initial Problems faced by the country and the efforts of Quaid-I-Azam as the first governor-general of Pakistan.
3. reasons for delay in constitution-making, the fate of the constitution and the imposition of Martial Law.
4. reasons for the failure of the Presidential System of Government and the downfall of Ayub Khan.
5. reasons for the insecurities of the Bengalis living in their own country and the reasons for the war of 1971.
6. the legal framework order and dismemberment of Pakistan.

6.1 BACKGROUND OF THE CONSTITUTIONAL DEVELOPMENT IN PAKISTAN

No country began with more disadvantages than Pakistan. It had no infrastructure; it had not been considered economically viable, yet its financial assets were withheld from it. The Supreme British Commander Auchinleck had written in a paper that Pakistan's defense would be weak, yet he initially opposed the division of the Armed Forces. After Partition it was Auchinleck who testified that Indian Government was preventing Pakistan from receiving its share of arms and ammunition. Princely states in the Punjab were deliberately exterminating Muslims, causing riots and massive influx of refugees. Afghanistan had opposed the entry of Pakistan to the U.N. Pakistan had no administrative structure, in spite of these forbidding circumstances, Pakistan has survived. The British agreed to the creation of Pakistan in the expectation that it would not survive. Lord Mountbatten had threatened Quaid-i-Azam that if he were not made the Governor General, Pakistan would suffer and even its existence would be at stake.

Lord Mountbatten did everything in his power to make good his threat. Both Military and Financial Assets of Pakistan were withheld. Pakistan was the only nation state to emerge without an infrastructure. Both colonial era capitals, Calcutta and Delhi were denied to it. Karachi was the only city connecting all routes, sea, rail and road. But Sindh itself had become a province only 10 years before the creation of Pakistan, with an acute shortage of administrative and residential housing. The Sindh Muslim League did not want Karachi to be taken over by the federal government. The Government of Pakistan, awaiting its share of assets, offered compensation to the Government of Sindh, but the compensation was considered insufficient. Only on 23 July 1947 could Karachi formally become Pakistan's capital. In such forbidding circumstances, the government employees who had opted for Pakistan were dedicated, devoted and indefatigable. The employees of the first generation worked under trees, utilizing their own resources to bring essential furniture and stationery. Their efforts bore fruit and as against the expectation of Lord Mountbatten and the Congress, Pakistan turned the corner. During these months the Pakistan Armed Forces without requisite equipment were nevertheless were being organized. Although the Quaid-i-Azam was ill, he travelled back to Karachi to inaugurate the State Bank of Pakistan. This signified not only Pakistan's solvency but also viability. The ceremony took place on 1st July 1948. On that occasion he said: "The policy of the Pakistan Government is to stabilize prices at a level that would be fair to the producer as well as to consumers. I hope your efforts will be directed in the same direction in order to tackle this crucial problem with success. I shall watch with keenness the work of your Research Organization in evolving practices compatible with Islamic ideals of social and economic life. The economic system of the West has created almost

insoluble problems for humanity and to many of us it appears that only a miracle can save it from disaster that is now facing the world.

This is a major policy statement signifying that Pakistan would follow Islamic principles which include zakat, and a system free of usury and exploitation, a ban on hoarding and cheating on weights and measures. This was not just the economic policy of the new state, but the moral fabric on which it would rest. This was his last public appearance in Karachi and only 20 days later his doctor was summoned to Ziarat.

Mr. Jinnah could not live long to see Pakistan rise to its full stature. He wanted to make the constitution as soon as possible but could not do it. After his death, Mr. Liaquat Ali Khan, the Prime Minister of the country, tried to develop the constitution for this state. The Objectives Resolution was his great success.

6.2 IDEOLOGICAL FACTORS AND CONSTITUTIONAL DEVELOPMENT

The constitutional role of Quaid-i-Azam as Governor-General of the Dominion of Pakistan was a necessity during the formative phase of Pakistan. The Government of India Act 1935 could be adapted to the Indian Independence Act 1947. The ideological concept that Jinnah had of Pakistan would become apparent, as would the practical and ideological compulsions of a Muslim majority state, Pakistan and religious minorities, Economic preferences of the Quaid-i-Azam, Inauguration of the State Bank of Pakistan are some of the salient features to be covered in this chapter.

Quaid-i-Azam Mohammad Ali Jinnah, had wanted to block Lord Mountbatten's attempt to become the Governor-General of Pakistan had nominated the Nawab of Bhopal former Chancellor, Chamber of Princes instead. On 9 July 1947 he had announced his intention to retire but was pre-empted by Hasrat Mohani and the A-IML Council. One reason, was his health. He had been diagnosed as having cancer of the lungs and he knew he had not long to live. Liaquat Ali Khan was the Honorary Secretary of the All-India Muslim League, and the leader of the Muslim League block in the Interim Government with the Finance portfolio. His appointment as Prime Minister was expected. The Cabinet of Pakistan was a distinguished one and as we have seen; from the highest to the lowest ranking functionary was dedicated towards making Pakistan survive and thrive.

THE OBJECTIVES RESOLUTION:

The Objectives Resolution was the first document in the direction of framing a constitution for Pakistan. It has been both praised as setting the course of the new state as well as denounced for deviating from the Quaid-i-Azam's 11 August 1947 speech. It is actually framed between two documents, the first being the Quaid-i-

Azam's speech, and the second being the draft of the resolution presented by an alliance of religious parties.. The main issue relates to the status of the minorities.

The second document presented by Liaquat Ali Khan, the Interim Report of the Basic Principles Report had to be withdrawn. The Objectives Resolution presented by the Prime Minister Liaquat Ali Khan to the Constituent Assembly of Pakistan on 7 March 1949 and passed by the majority on 12 March proved to be a landmark in the constitutional development of Pakistan. It is also a most resilient document, enshrined in the present constitution not as a preamble, but as a substantive part.

The Objectives Resolution stands as a pivotal document in the constitutional narrative of Pakistan. Adopted on 12th March 1949 by the inaugural Constituent Assembly under the stewardship of Liaquat Ali Khan, it holds profound significance in shaping the constitutional trajectory of the nation. This Resolution not only delineated the fundamental aspirations upon which the future constitution of Pakistan would be built but also laid the cornerstone for its constitutional evolution.

What makes the Objectives Resolution paramount is its amalgamation of core principles from both the Islamic political ethos and Western democratic ideals. This synthesis reflects a nuanced approach towards governance, encapsulating the essence of Pakistan's diverse socio-political landscape. Its enduring importance is evidenced by its incorporation as a preamble in subsequent constitutions, namely those of 1956, 1962, and 1973. Ultimately, through the Eighth Amendment to the Constitution in 1985, the Objectives Resolution attained constitutional permanence, cementing its status as an integral part of Pakistan's constitutional framework.

Objective Resolution was presented in the Constituent Assembly by Liaquat Ali Khan on March 7, 1949, and was debated for five days by the members from both the treasury and opposition benches. The resolution was ultimately passed on 12 March 1949. The following were the main features of the Objectives Resolution:

- The sovereignty of the entire Universe belongs to Allah alone
- Authority should be delegated to the State through its people under the rules set by Allah
- The Constitution of Pakistan should be framed by the Constituent Assembly
- The state should exercise its powers through the chosen representatives
- Principles of democracy, freedom, equality, tolerance, and social justice, as inshore by Islam should be followed
- Muslims shall live their lives according to the teachings of the Quran and Sunnah
- Minorities can freely profess and practice their religion.

- There should be a federal form of government with the maximum autonomy for the Units
- Fundamental rights including equality of status, of opportunity and before law, social, economic, and political justice, and freedom of thought, expression, belief, faith, worship, and association, subject to the law and public morality should be given to all the citizens of the state.
- It would be the duty of the state to safeguard the interests of minorities, backward and depressed classes.
- The independence of the judiciary should be guaranteed.
- The integrity of the territory and sovereignty of the country were to be safeguarded.
- The people of Pakistan may prosper and attain their rightful and honored place amongst the nations of the world and make their full contribution towards international peace and progress and the happiness of humanity.

Liaquat Ali Khan articulated the significance of the resolution in his address to the Constituent Assembly on March 7, 1949. He described its passage as "the most important occasion in the life of this country, next in importance only to the achievement of independence." Khan emphasized the Muslim belief in the ultimate authority vested in Allah Almighty, advocating for its exercise in accordance with Islamic principles. He highlighted that the preamble clarified that authority would be wielded by elected representatives, a cornerstone of democracy that mitigated the risks of theocracy.

Furthermore, Khan underscored the Objectives Resolution's emphasis on democratic principles, including freedom, equality, tolerance, and social justice. He asserted that these principles must form an integral part of the forthcoming constitution, thereby aligning with the aspirations of the Pakistani populace for a just and inclusive society.

During the session of the Constituent Assembly, the Objectives Resolution faced opposition and criticism from minority leaders. Prem Hari, a non-Muslim member, proposed that the motion should be circulated to evoke public opinion before discussion in the house, suggesting April 30, 1949, as the date for deliberation. This proposal found support from Sris Chandra Chattopadhyaya, who further recommended amendments to the resolution. Chattopadhyaya argued that since the Committee of Fundamental Rights had already finalized its report, recommending these rights in the resolution was redundant. He also expressed concerns about the amalgamation of religion and politics in the Objectives Resolution, fearing ambiguities in its application within the constitutional framework. He advocated for time to thoroughly study and understand the implications of the Objectives Resolution.

In discussions regarding the rights of religious minorities, Chandra Mandal opposed the resolution by questioning why the clergy insisted on Islamic principles, while India had its Pandits who did not make similar demands. Mandal emphasized the separation of individual and state religions, viewing the Objectives Resolution as a significant deviation from the ideals of a secular Pakistan. Kumar Datta also opposed the resolution, suggesting that if it had been presented during Jinnah's time, it would not have taken its current form. He cautioned against actions leading future generations towards an uncertain fate.

Furthermore, Hindu members proposed amendments to the resolution, recommending the omission of phrases like "sacred trust," "within the limits prescribed by Him," and "as enunciated by Islam." Instead, they suggested inserting phrases such as "as prescribed by Islam and other religions" and "National sovereignty belongs to the people of Pakistan," aiming to reflect a more inclusive approach in the Objectives Resolution.

Mian Muhammad Iftikharuddin stood as the sole Muslim member in the assembly to oppose the resolution. He found the resolution vague, contending that many of its words lacked concrete meaning. He argued that such a significant resolution should not solely reflect the views of the Muslim League members in the assembly but should rather echo the collective voice of Pakistan's seventy million people.

Conversely, the Objectives Resolution found staunch support from figures such as Dr. Ishtiaq Hussain Qureshi, MaulanaShabbir Ahmad Usmani, SardarAbdurrabNishter, Noor Ahmad, Begum Shaista, Muhammad Hussain, and others. In defense against the opposition's claims, they asserted that Islam not only governs the relationship between individuals and God but also guides believers in various spheres of life, serving as a comprehensive code of conduct.

Following a rigorous debate, the Constituent Assembly adopted the resolution on March 12, 1949. Liaquat Ali Khan assured minorities that once the constitution based on the Objectives Resolution was enacted, they would receive all fundamental rights in Pakistan. However, the resolution's passage created a communal divide, with Muslim members, except for MianIftikharuddin, voting in favor, while non-Muslims opposed it. This division fueled suspicion among minorities toward the majority, a sentiment that persists due to the resolution's incomplete implementation in Pakistan, leaving doubts in the minds of minorities regarding its true spirit.

CONSTITUTIONAL EFFORTS AFTER OBJECTIVES RESOLUTION (1947-1956)

Pakistan came into being on 14 August 1947 while Quaid-e-Azam Mohammad Ali Jinnah was appointed as the first governor-general. The most important constitutional document was Government of India Act 1935, which was temporarily adopted as the constitution of Pakistan as is was declared in the Indian

Indipendence Act 1947. Between the passage of the Objectives Resolution 1949 and the promulgation of the 1956 Constitution of Pakistan, a number of documents containing constitutional proposals were released. These were the Basic Principles (Interim Report) 1950, Basic Principles (Final Report) 1952, the Mohammad Ali Formula 1953, and the 1954 draft Constitution. The same era saw the assassination of Liaquat Ali Khan, the dismissal of KhwajaNazimuddin, the dissolution of the first Constituent Assembly and the introduction of the One-Unit administration in West Pakistan.

The same day that the Objectives Resolution was passed (12 March 1949), a 25 number Basic Principles Committee was appointed. The Chairman was Tamizuddin Khan, the President of the Constituent Assembly and the Vice-Chairman was Liaquat Ali Khan, the Prime Minister. From then on, the issues of the delegation and the distribution of power caused the process of framing a constitution to be protracted. A constitution was needed to end the Dominion status of Pakistan under which the British sovereign was the nominal head of state, and to make it a republic where the head of state would be a national of the state, and elected to office.

A constitution serves two purposes. Firstly, it enshrines the conditions according to which the people of a nation agree to live together. Secondly, it serves as the Basic Law. The Indian Independence Act 1947 together with provisions of the Government of India Act 1935 was already serving as the basic law, and the quantum of authority to be submitted by the individual to the state, at different levels was the question over which a consensus was needed to evolve. This meant the consideration of various proposals from different quarters which would be partly accepted, and partly rejected, and prolonged negotiations were needed to formulate suggestions acceptable to all parties.

The main hurdles were that two parts of Pakistan, the West and the East were separated by a thousand miles of Indian territories and were culturally diverse. It was later called a union between the Middle East and South-East Asia. The territory of East Bengal was small, but it contained the majority of the population. There was no national language in British India, and the only two inter-provincial languages were Hindi and Urdu---Hindi being more of a rural language and Urdu being more of an urban language.

Bengali was a language with a very rich literature, and Rabindra Nath Tagore was a Nobel Laureate, but for all that, it was a provincial language and its Nagri alphabets would prove challenging to the common man in West Pakistan who also had his own mother tongue, whether Sindhi, Punjabi Pashto, Hindko, Balochi and Brahvi all with mystical and folk literatures. This division was compounded by the fact that the Muslim population of the two wings was equal, East Bengal had a larger population because of its Hindu component, which is why religious parties

were insisting on Separate Electorates for minorities, why the Pakistan National Congress was suspicious of the Objectives Resolution, and why so many formulations were suggested for sharing power, in between accepting the majority status of East Bengal or providing for inter-wing parity.

The Basic Principles (Interim Report) 28 September 1950

We have seen how the Objectives Resolution had been criticized by the Pakistan National Congress as being Islamic, and how it had been criticized by the Jama'at-i-Islami led alliance as being un-Islamic, the Basic Principles Committee had in the first instance to deal with the status of the Objectives Resolution: The Objectives Resolution was to be incorporated in the Constitution as a directive principle of state policy and was not to prejudice the incorporation of fundamental rights in the Constitution.

Briefly stated, Pakistan would be a federation having a parliamentary democracy. A federation means a system where more than one government, federal and provincial can function, and where generally a third tier of local government can also cater to the population. There was to be a president and a prime minister The federal legislature would be Bicameral--- consisting of two houses, while the provincial legislatures were to be unicameral—having only one house.

The Legislature

The upper house, to be called the House of Units would have 100 members, who would be elected by provincial assemblies. Units included the 5 provinces as well as Princely states like Bahawalpur and Khairpur.

The lower house called the House of the People would have 400 members elected by adult franchise. Both houses would have equal power and equal tenure. Budgets and monetary bills were to be decided by both houses having joint sessions. The existing provinces would have equal representation in the House of Units. Apart from monetary issues as mentioned above, the President could convene a joint session of parliament, when there was

a. Conflict between the Houses.

b. An election, or move for the removal of the President.

c. Consideration of a motion of no-confidence in the cabinet.

d. The dissolution of the federal legislature would be on the advice of the Prime Minister.

The President

The head of state would be elected for a five-year tenure by a joint session of both houses. He himself would not be a member of any house. He had the authority

to appoint the Commanders-in-Chief for the three services, and other officers of the armed forces. The President's discretionary powers were restricted to granting clemency, and the appointments of election tribunals. Thus in normal times the powers of the President were to be for the most part ceremonial, but in times of emergency he could abrogate the constitution wholly or partly, and issue ordinances when parliament was not in session. The powers to abrogate the constitution, given in advance of the constitution having been framed, was an extraordinarily regressive step.

The Prime Minister

The Prime Minister was to be appointed by the President, but had to be a member of parliament and would have to command the confidence of both houses of parliament Cabinet Ministers were to be appointed on the advice of the Prime Minister. This arrangement would be replicated in the provinces with the Governor and Chief Minister.

The Reaction

The Interim Report proved most unpopular. The teaching of the Holy Quran was made compulsory for Muslims. This would hardly satisfy the religious party alliance, because learning the Quran was already compulsory for Muslims. The report was unpopular in the west wing because the quantum of authority accruing to each house was not made clear. Presumably, since there were more provinces in the west wing, they would have a majority in the House of Units; but that would come about if all West Pakistan provinces voted as a block, and on a number of issues, something unlikely.

The eastern wing was even more disappointed. Firstly, Urdu was to be the only national language, thus sidelining Bengali, the language of the majority. Secondly, although Bengalis would have a majority in the House of the People, that majority could be neutralized by both houses having equal power and tenure, especially with regard to budgets and financial bills when both houses would sit together.

The Committee of Action

In East Bengal a Committee of Action was constituted under Maulana Abdul Hamid Khan Bhashani which gave counter proposals to the Interim Report. It proposed two autonomous regional governments, one for West Pakistan and one for East Pakistan. There would be a single central assembly which would have its membership based on population. Its jurisdiction would be limited to Currency, Defense and Foreign Affairs. The central government would have its power further curtailed by requiring that there be two Foreign Offices and two regional defense forces. This, we need not stress, is the document from which the Awami League

derived its 6 Point program which was to ultimately divide the two wings in 1971. It is important to note that this demand surfaced at this early stage when industries were yet in the planning stage This demand for autonomy could not have been based on the notion that West Pakistan was exploiting East Pakistan.

Liaquat's Reaction

In such a situation, Liaquat Ali Khan realized that to persist with this report was futile. On 2 November he moved a motion postponing the consideration of the Interim Report. Liaquat Ali Khan assured the leaders of East Bengal that it was not his intention to deny them a majority in the Constituent Assembly, an assurance that the Bengali leaders found satisfactory. When the Final Report came out, there was a complete reversal.

The Basic Principles Committees (Final Report) 1952

By the time the Final report was presented in November 1952, Liaquat Ali Khan had been assassinated and had been succeeded as Prime Minister by Khwaja Nazimuddin. The head of state was required to be a Muslim. The previous day Maulana Abul 'Ala Maududi had demonstrated for an Islamic constitution in Karachi.

The House of Units was to consist of 120 members, 60 from each wing. In the House of Units equal votes for each unit was done away with and the vote of East Bengal was made equal to the votes of all other units put together. The upper house could only make recommendations; while the actual legislative powers would vest in the lower house—the House of the People--- especially on money bills. It would consist of 400 members. A vote of confidence could be given only in the lower house. In this fashion the powers of the lower house/ east wing were increased to the detriment of the West; especially the Punjab. The smaller provinces in the west wing who were given weightage---that is more seats than warranted by their population-- if joined by the east wing, could outvote the Punjab, for which reason, the Punjab Muslim League withdrew its support for the Basic Principles (Final Report).

The House of the People could normally be dissolved on the advice of the Council of Ministers, but if no party could command confidence, the Head of State could dissolve the house. These provisions were replicated in the provinces and states where the legislatures would remain unicameral. This Report had the merit of providing for a higher judiciary, and under its rules, civil servants would be protected against arbitrary action. Laudable in itself, this provision showed that the civil service was becoming the dominant factor in governance.

Since with the Basic Principles (Final Report), the pendulum had swung in favor of East Bengal, there was hardly any chance of its being adopted. In fact, these proposals led to the concept of One-Unit. They also led to the dismissal of Khwaja Nazimuddin as Prime Minister, although he commanded a majority in the

Constituent Assembly. For this situation, the vice-regal powers inherited by the governor-general have been blamed. Presidents are also more active when they are ideologically opposed to the government and parliamentary majority.

Governor-General's Proposals 1953

The next step in the direction of framing a constitution was taken when Ghulam Mohammad, the Governor-General presented his own constitutional proposals. Since during the Martial Law, most of the religious leaders were in jail, Ghulam Mohammad did not cater to this pressure group. According to the Governor-General's proposal the Constituent Assembly---in a measure that had to be endorsed by the Constituent Assembly would lose its sovereign status. This would enable Ghulam Mohammad to control the Constituent Assembly, just as he had taken control of the cabinet by dismissing Khwaja Nazimuddin and appointing Mohammad Ali (Bogra) in his stead. His proposals would give him the authority to dissolve the Constituent Assembly. As another device to counter the Bengali majority Ghulam Mohammad proposed the merger of all western provinces and states into One Unit to be called West Pakistan. This idea had its origin in the Cabinet Mission Plan where the whole of west Pakistan (including East Punjab) would comprise Group B. While rejecting the Grouping clause on 10 July 1946, Jawaharlal Nehru had also said that Sindh would not like to be under the domination of the Punjab. This consideration entered political consciousness then, the following year, in April 1947, Jawaharlal Nehru had also rejected the proposal of an independent and united Bengal, which, if it had been allowed to emerge would have spared Pakistan the tension of balancing the demands of the two wings and making concessions that were asymmetrical. Predictably, the Constituent Assembly rejected the proposals of Ghulam Mohammad, which predictably, made him more possessive of his powers.

Muhammad Ali Bogra Formula (1953)

When Muhammad Ali Bogra became the Prime Minister of Pakistan, the main task ahead of him was to achieve an agreement on a workable constitution for the country. He worked hard on this project and within six months of assuming power, came out with a constitutional formula. He presented the formula to the Constituent Assembly on 7th October 1953 and it is known as the Bogra formula. The major features of the formula were:

- The federal legislature would comprise two houses – the House of Units and the House of People. The total strength of the House of Units would be 50, which was to be equally divided among five units namely, East Bengal, Punjab, NWFP, Frontier States, Sindh and Khairpur, Baluchistan. The House of Units would be elected indirectly by the legislature of the units. The Bogra formula reduced the 9 units of West Pakistan into 4 units.

- The House of People was to have a total number of three hundred members, to be divided among the five units in this manner – East Bengal 165 members, Punjab 75, NWFP 13, Sindh 19, State of Khairpur 1, Baluchistan 3, and Bahawalpur State 7.
- Both Houses were to have equal powers in all matters. There was a provision for a joint session of the two for the election of the Head of the State and the disposal of votes of confidence.
- In case of a difference of opinion between the two Houses, a joint session of the two Houses would be called and the matter would be decided by a majority vote, provided that the majority included thirty percent of the members from each zone.
- It maintained the principle of parity between East and West Pakistan in combined Houses, with 175 seats for each zone. So in total, both the wings were to have 175 seats each in the two Houses of the Legislative Assembly.
- In place of the Board of Ulama, the Supreme Court was given the power to decide if a law was in accordance with the basic teachings of the Holy Quran and Sunnah.
- The two houses of the Legislative Assembly formed the Electoral College for the Presidential elections and the President was to be elected for a term of 5 years.

This proposal garnered significant enthusiasm, although it wasn't without criticism. The issue of equal powers to both Houses sparked debate, with some arguing that since the lower house represented the people, it should wield more authority. Despite this contention, the proposal was generally accepted, although the parliament remained divided on its response to the formula.

Another crucial development during this period was the resolution of the language issue. In 1954, the Constituent Assembly of Pakistan determined that Bengali and Urdu would serve as the national languages, a decision that facilitated the constitution-making process.

Unlike the two reports of the Basic Principles Committee, the Bogra Formula received widespread appreciation from various sections of society. It ignited great enthusiasm among the masses, perceived as a plan capable of bridging the gap between the two wings of Pakistan and fostering national unity. Following a 13-day discussion in the Constituent Assembly, a committee was formed to draft the constitution on November 14, 1953. However, before the constitution could be finalized, the Assembly was dissolved by Ghulam Muhammad, the then Governor-General of Pakistan.

One Unit

When Pakistan emerged as a nation, its geographic layout posed significant challenges due to its division into two distinct regions: East Pakistan (now Bangladesh) and West Pakistan (the Islamic Republic of Pakistan). Geographically, East Pakistan was situated thousands of kilometers away from West Pakistan. Moreover, within West Pakistan, there were four provinces, while East Pakistan functioned as a single province. This geographical divide created complexities and disparities in terms of development and governance.

The disparities between East and West Pakistan were evident in various aspects, including economic opportunities, access to resources, and political representation. West Pakistan, being more developed, boasted a robust military and bureaucracy, exacerbating the divide between the two regions. Additionally, issues such as language disparity and the equitable distribution of power further fueled tensions and hindered the prosperity of East Pakistan. Overall, the geographic and socio-economic disparities between East and West Pakistan presented significant hurdles, leading to challenges in fostering unity and equitable development within the newly formed nation.

Despite the efforts of Pakistan's leadership to address the disparities faced by East Pakistan, tensions persisted. Prime Minister Muhammad Ali Bogra introduced the concept of a "One Unit" system, aiming to alleviate the disparities by merging the four provinces of West Pakistan into a single administrative unit and implementing development projects to uplift the region.

On September 30, a bill in favor of the one-unit system was passed in the assembly, with Lahore designated as its capital. The territories of West Pakistan, previously under the control of three governors, now fell under the administration of a chief commissioner. Mushtaque Ahmed Gurmani was appointed as the first governor, with Dr. Khan Sahib serving as the inaugural chief minister.

However, the decision to merge the provinces was not universally accepted. The Sind assembly opposed the campaign for One Unit, revealing underlying tensions within the country. The strong central authority was evident, as dissenting voices were suppressed. Pirzada Abdul Sattar, the then chief minister of Sind, was dismissed by Ghulam Muhammad, underscoring the power dynamics at play within the federal structure.

Following Pirzada's dismissal, Muhammad Ayub Khuhro assumed the position of Chief Minister of Sindh, and the Sind assembly began to support the One Unit campaign. However, Khuhro faced dismissal due to corruption charges under the Public and Representative Officer Disqualification Act (PRODA) in 1949. Despite this setback, he was reappointed as Chief Minister three years later,

only to be dismissed again after a few months. In 1954, with the lifting of PRODA, Khuhro was reinstated as the Chief Minister of Sindh. While Sind and West Pakistan gradually embraced the One Unit Unit system, East Pakistan remained staunchly opposed. Nevertheless, despite numerous challenges, the One Unit Unit system was eventually implemented.

However, the merger of provinces only exacerbated existing issues and failed to bring about the promised prosperity and development. Recognizing this, the West Pakistan legislature passed a bill in October recommending the dissolution of the One Unit system. Consequently, Suhrawardy's cabinet fell from power, and the central government dismissed ministries in Punjab, Sindh, and NWFP.

The One Unit system persisted until General Yahya Khan dissolved it on July 1st, 1970. In conclusion, rather than resolving internal disparities, the One Unit system created further problems within West Pakistan. It failed to address the disparities in East Pakistan or provide solutions to other pressing issues, ultimately proving to be ineffective in achieving its intended objectives.

6.3 THE CONSTITUTION OF PAKISTAN 1956

Upon assuming office as Prime Minister, Chaudhary Muhammad Ali and his team embarked on the arduous task of formulating a constitution for Pakistan. After diligent efforts, the committee tasked with framing the Constitution presented the draft Bill to the Constituent Assembly of Pakistan on January 9, 1956. However, the bill faced opposition from Bengali autonomists, notably Bhashani, the leader of the Awami League in East Pakistan.

Bhashani and his party utilized the threat of secession to advocate for autonomy, culminating in a walkout from the Assembly on February 29, when the Constitution was adopted. Subsequently, the Awami League boycotted the official ceremonies commemorating the inauguration of the Constitution. Despite their opposition, the Constitution was formally adopted and came into effect on March 23, 1956.

This marked the end of Pakistan's status as a dominion, with the country being declared the Islamic Republic of Pakistan. The Constituent Assembly transitioned into the interim National Assembly, and Governor-General Iskander Mirza was sworn in as the first President of Pakistan.

The Constitution of 1956 consisted of 234 articles, divided into 13 parts and 6 schedules. The following were the chief characteristics of the Constitution:

- Pakistan was declared as the Islamic Republic and it was made mandatory that only a Muslim could become the President of the country. President would set up an Organization for Islamic Research. Good relations with the Muslim countries became the main objective of the Foreign Policy. Objectives Resolution and Quaid's declaration that Pakistan would be a

democratic state based on Islamic principles of social justice were made the preamble of the Constitution. Steps were to be taken to enable the Muslims individually and collectively to order their lives in accordance with the teaching of the Quran and Sunnah and to implement Islamic moral standards. The sectarian interpretations among the Muslims were to get due regard. Measures were to be taken to properly organize zakat, waqfs, and mosques. However, one clause relating to the elimination of riba, which was the part of the draft was eventually dropped.

- The constitution provided for the federal form of government with three lists of subjects: federal, provincial and concurrent. The federal list consisted of 33 items, provincial of 94 items, and a concurrent list of 19 items. The federal legislation was to get precedence over provincial legislation regarding the concurrent list. In case of a conflict between federal and provincial governments, or between the provincial governments, the Chief Justice of the Supreme Court was to act as a mediator. The federal government exercised wider control in provincial matters in case of emergency.
- Though the constitution provided for the Parliamentary form of Government, yet it declared that the executive authority of the Federation would be in the president.
- Any Muslim citizen of Pakistan, who was at least forty years old, could be elected as the President of Pakistan for the term of five years. No one was entitled to hold this office for more than two tenures. 3/4th members of the Assembly could impeach the president.
- President could appoint from amongst the MNAs a Prime Minister who had to take the vote of confidence from the house in two months. The Prime Minister had to inform the president about all the decisions of the cabinet.
- Ministers could be taken from outside the National Assembly but they were to get themselves elected within six months.
- President had the power to summon, prorogue, and dissolve the Assembly on the advice of the cabinet. No bill imposing taxes or involving expenditure could be moved without his consent. He had partial veto power. He could give or withhold his assent to a bill passed by the Assembly.
- Prime Minister and his cabinet were to aid and advise the president. The president was required to follow the advice of the cabinet except where he was empowered to act at his discretion.

- The Constitution entitled for a Unicameral Legislature. The National Assembly was to consist of 300 members. The age limit of a candidate for a seat in the National Assembly was 25 years.
- The principle of parity was accommodated in the Constitution. West Pakistan was treated as One Unit and seats were divided equally between the two wings of the country. National Assembly was to meet at least twice a year. A minimum of one session should be held in Dhaka.
- Members of the Assembly were to be elected based on Direct Elections conducted based on Adult Franchise. However, for the first ten years, five additional seats were reserved for women from each wing. Every citizen, who was more than 21 years of age was considered an adult.
- The provincial structure was similar to that of the center. There were 300 members in both provincial assemblies. Ten additional seats were reserved for women. Punjab was given 40% seats in the West Pakistan Assembly.
- It was a Written Constitution.
- It was a Flexible Constitution and two-third members of the Assembly could bring an amendment to the constitution.
- Fundamental Rights were made justiciable. However, the President had the power to suspend fundamental rights in case of emergency.
- Elaborate provisions were made for the higher judiciary to ensure its independence.
- Urdu and Bengali were declared as the state languages. However, for the first twenty years, English was to continue as an official language. After ten years, the president was to appoint a commission to make recommendations for the replacement of English.

The constitution was never practically implemented as no elections were held. It was eventually abrogated on October 7, 1958, when Martial Law was enforced.

6.4 THE CONSTITUTION OF PAKISTAN 1962

After the military coup of 1958, Ayub Khan waited for some time intending to pave the path of public opinion in his favour. A legislative commission was established in the leadership of Justice Shahaab-ud-din. The commission forwarded the report on 6th May 1961. Justice Manzur Qadir designed and drafted the whole constitution. Ayub, by passing a presidential ordinance, enacted the new constitution on 8th June 1962. Justice Manzur Qadir served the nation as minister of Foreign Affairs from 1958-1962 and then Chief Justice of Lahore High Court from 1962-63.

The Constitution of 1962 envisioned a Federal State with a Presidential form of government, featuring a National Assembly at the center and Provincial Assemblies in the provinces. Both the central and provincial legislatures were unicameral. However, the Federal system was somewhat constrained as Provincial Governors were to be appointed directly by the President, consolidating executive authority in the office of the President. The President appointed Cabinet members who were directly accountable to him.

The electoral system was made indirect, utilizing the 'Basic Democrats' as the Electoral College for both wings of Pakistan, comprising 80,000 members (40,000 from each East and West Pakistan). The National Assembly consisted of 156 members, with one half elected from East Pakistan and the other from West Pakistan. Additionally, three seats were reserved for women from each province. The term for this Assembly was three years. A precedent was set where the Speaker of the Assembly hailed from the opposite wing of the President; if the President was from West Pakistan, the Speaker would be from East Pakistan, and vice versa. One of the significant achievements of this Assembly was the passage of the Political Parties Act, 1962.

It had the following salient features:-

1. The constitution was not passed with the consent of the elected representatives of the people. It was the creation or brainchild of a single person.
2. The constitution was president-friendly; making amendments was easy only if supported and endorsed by the president or it was a very lengthy and difficult job. For making any amendment, the 2/3rd majority of the assembly had to pass the bill and then had to send it to the president. If the president did not take up any objection for thirty days, the amendment was considered valid. However, the president might disapprove or send back the resolution with certain alterations. In that case, it was needed to gain the consent of the 3/4th majority of the assembly. The president had to give consent in ten days or had to propagate it for the opinion of Basic Democrats. In that case, the opinion of the B.D'S was considered final.
3. It was a federal system of government with East Pakistan and West Pakistan as its units. The constitution contained the list of only federal authorities, the rest were given to the federating units. The center had the authority to intervene in the provincial matters if considered necessary.
4. Unlike previous constitutions, the Indian Act 1935 and the constitution of 1956, it was presidential with all the executive powers resting with the president. He was the constitutional head of government and state.

5. It was a unicameral system of government with only one house. The members of the National Assembly were elected by the basic democrats.
6. The judiciary was kept independent to the extent of theory. All the judges of the High courts had to be selected and appointed by the president with the advice of the chief justice. But the president was not bound to the opinion or wishes of the Chief Justice.
7. The constitution guaranteed the basic human rights for all the citizens of Pakistan without any discrimination of caste, creed, and color.

The constitution of 1962 was a one-man show. It was designed for a single man. Apparently, it gave many rights and securities to the people but actually it deprived the people of all kinds of political rights and their representation in the legislation.

The downfall of Ayub Khan

During General Ayub Khan's decade-long rule, often regarded as a period of progress and industrial advancement, significant infrastructure projects like the Mangla Dam, Karachi Steel Mills, and oil refineries were initiated. Notably, the establishment of Islamabad as the new capital symbolized a forward-looking vision. Ayub Khan implemented reforms aimed at modernizing societal norms, such as the Muslim Family Laws Ordinance of 1961, which sought to curb polygamy and enhance women's inheritance rights. Furthermore, his Land Reforms targeted the entrenched power of the landed elite, aiming for more equitable distribution of resources.

His diplomatic endeavors, including the boundary agreement with China in March 1963, laid the groundwork for enduring friendships between nations. However, despite these achievements, Ayub Khan's popularity gradually waned over time. The turning point came with the tumultuous events surrounding the 1965 elections and the subsequent Tashkent Declaration. These incidents cast doubt on the legitimacy of his regime and sparked societal unrest, marking a shift in public sentiment away from the once-favorable perception of his rule.

- Upon assuming power, Ayub Khan consolidated authority through measures such as the Elective Bodies Disqualification Order (EBDO), aimed at disqualifying politicians and political parties to ostensibly combat corruption.
- Despite public demand for a parliamentary system, Ayub Khan introduced a presidential constitution in 1962, consolidating power in his own hands.
- The implementation of Basic Democracy (BD) curtailed adult franchise rights, limiting the democratic process.

- Ayub Khan's regime exerted control over the media and press, stifling dissent and limiting freedom of expression.
- Although progressive Land and Family Laws were enacted, their full implementation remained lacking.
- Urbanization was promoted under Ayub's rule, but adequate facilities and infrastructure were not provided to support this transition.
- The formation of West Pakistan as One Unit led to dissatisfaction among smaller provinces, who felt marginalized by centralized governance.
- Rumors surrounding Ayub Khan's health in early 1968, speculation about appointing GoharAyub as his successor, and concerns about military withdrawal further contributed to his declining popularity.

Ayub Khan's neglect of East Pakistan from the outset significantly impacted his popularity. Since independence, successive governments, including Ayub Khan's, had turned a blind eye to the needs of East Pakistan, perpetuating economic disparities between the eastern and western regions. Despite being aware of the acute grievances of the Bengalis, Ayub Khan failed to address them adequately. The densely populated and politically active province of Bengal felt increasingly deprived under Ayub's highly centralized regime, which lacked democratic institutions. East Pakistanis perceived Martial Law as the dominion of a Punjabi-dominated army, further exacerbating feelings of marginalization. The issue of provincial autonomy intensified over time, culminating in Sheikh Mujeebur Rahman's presentation of the six-point formula for East Pakistan's autonomy in 1966. However, Ayub Khan's administration paid little heed to the growing discontentment, exacerbating tensions that would ultimately lead to significant upheaval.

Zulfiqar Ali Bhutto capitalized on the Tashkent declaration to sway public opinion against Ayub Khan. The rising popularity of Sheikh Mujib-ur-Rahman's Awami League in East Pakistan and Zulfiqar Ali Bhutto's Pakistan Peoples Party in West Pakistan posed significant challenges to the stability of Ayub's regime. Additionally, movements led by figures like Asghar Khan and various political alliances further complicated Ayub's governance.

The opposition against Ayub's government intensified toward the end of 1968 and the beginning of 1969, spearheaded primarily by the urban middle class comprising students, lawyers, teachers, doctors, laborers, and politicians. Faced with mounting opposition from both politicians and ordinary citizens across all sectors of society, Ayub found it increasingly difficult to maintain control.

Ultimately, in March 1969, Ayub Khan made the decision to resign. In his final radio address to the nation on March 25, 1969, he declared, "I cannot preside

over the destruction of my country." This marked the end of what had been a relatively stable and progressive era in Pakistan's history.

INSURRECTION IN EAST PAKISTAN AND THE 1971 WAR

The restoration of law and order was the immediate priority which was then achieved, because a fair election was promised. Simultaneously the framing of a new constitution and the Awami League's 6 Point program became the main political issue. Yahya Khan issued an LFO, which ended One Unit and provided for One Man One Vote. There was an unusually long campaign period. After election results the PPP in the west resisted a 6 Point constitution due to which a crisis occurred. On 1 March 1970 the National Assembly session was postponed leading to ethnic cleansing by the Awami League. On 25 March the Pakistan Army took action. India and Russia signed a pact. War broke out in November 1971. In the UNSC the proposal for cease fire was vetoed. On 16 December 1971, the Army surrendered and on 20 December, Z. A. Bhutto took over as C.M.L.A. and President.

6.5 THE LEGAL FRAMEWORK ORDER (1970)

On 30th March 1970, The President and Chief Martial Law Administrator. General Yahya Khan promulgated the Legal Framework Order under which elections would be held. Prior to this, he undid One Unit and restored the 4 provincial governments of West Pakistan. The principle of parity between the two wings was removed, and that of One Man- One Vote (adult franchise) was introduced which meant a majority for East Pakistan in terms of National Assembly seats.

Certainly, let's delve into a detailed explanation of the salient features of the Legal Framework Order (LFO) of 1970:

1. **Structure of the National Assembly**: The LFO outlined the composition of the National Assembly, Pakistan's primary legislative body. It comprised 313 seats, with an allocation of 13 seats reserved for women. The distribution of seats was as follows:

- East Pakistan: 169 seats
- Punjab: 85 seats
- Sindh: 28 seats
- NWFP (now Khyber Pakhtunkhwa): 19 seats
- Baluchistan: 5 seats
- Tribal Areas: 7 seats

2. **Establishment of Provincial Assemblies**: Each province was designated its own provincial assembly, consisting of elected members. The assembly sizes varied based on the population and demographic distribution of each province:

   - East Pakistan: 400 members
   - Punjab: 186 members
   - Sindh: 62 members
   - NWFP: 42 members
   - Baluchistan: 21 members

3. **Principles for the New Constitution**:

❖ Pakistan as an Islamic Republic: The LFO affirmed Pakistan's status as an Islamic Republic, with Islam as the state religion. The head of state was required to be Muslim, and the principles of Islam were to be preserved in the constitution.

❖ Democratic Principles: The LFO emphasized the principles of democracy, ensuring free elections for both federal and provincial legislatures based on adult franchise. Additionally, it advocated for the establishment of an independent judiciary and guaranteed fundamental rights for citizens.

❖ Federal Structure with Provincial Autonomy: While centralizing power at the federal level, the LFO also aimed to grant maximum autonomy to the provinces. This balance sought to ensure effective governance while respecting regional diversity and autonomy.

❖ Economic Equity and Citizen Participation: The LFO aimed to address economic disparities within society and promote active citizen participation in state affairs.

4. **Constitutional Framework and Legislative Tenure**: The LFO clarified the status and tenure of national and provincial assemblies. The National Assembly would serve as the sole legislature or as the lower house in a bicameral system, with a full-term tenure in either scenario. Similarly, provincial assemblies would have the same tenure.

5. **Dissolution of the Constituent Assembly**: The LFO stipulated that if the Constituent Assembly failed to draft the constitution within 120 days, it would stand dissolved, necessitating alternative measures for constitution-making.

6. **Election Procedures and Party Eligibility**: Provisions were made for the conduct of elections, setting dates for the National Assembly and provincial assembly elections. Additionally, the LFO outlined specific conditions and qualifications for political parties to participate in elections, ensuring adherence to legal and procedural standards.

Overall, the Legal Framework Order of 1970 provided a comprehensive framework for the conduct of free and fair elections, the establishment of representative institutions, and the drafting of a new constitution in Pakistan. It aimed to address key issues such as regional representation, democratic principles, and provincial autonomy, laying the groundwork for political stability and governance reform in the country.

DISMEMBERMENT OF EAST PAKISTAN 1971

In 1940, the Lahore Resolution, which demanded a separate state for the Muslims, put forward by Fazal-ul-Haq, (sher-i-Bengal) the premier of Bengal. This resolution was passed without any objection by the members of All India Muslim League. That's why at the time of Independence, the people of Bengal believed that there would be provincial autonomy in Pakistan but they were disappointed due to centralization policy of the government of Pakistan. United Pakistan had peculiar geographical characteristics, as it consisted of two distinct wings of territories separated by a distance of 1500 km. East Pakistan and West Pakistan were geographically separated and had diverse culture and language. The only binding factors between both the wings were the common religion and their joint struggle for independence against the British Governement and Indian National Congress.

Social and cultural Diversity: The inhabitants of East and West Pakistan belonged to very different social structure. Their ideologies as the people of East Pakistan were secular and the people of West Pakistan were more traditional and conservative. These differences reflected in the behaviour of government officials as well. There were complaints about the behaviour of the high officials in central government towards the East Pakistan. The apathetic attitude of central government dominated by Punjabresulted into mistrust between both the parts. No serious attempt was made to solve this issue. It seemed as East and West Pakistan were two different parts of one country separated by 1000 miles of Indian territory. Ayub Khan in his autobiography stated that the people of West Pakistan considered their culture superior to that of East Pakistan and that did not go unnoticed in East Pakistan.

Language Issue: When the capital of Pakistan was decided to set up in Karachi in West Pakistan, the people in East Pakistan felt that they were not considered equal partners in the new nation. Ignoring their language, Urdu was chosen as the national language. They protested that Urdu was the language of only six percent people in Pakistan, whereas Bengali was spoken by 56 percent of the total population of the country. They could not comprehend that the issue of language is not decided on the basis of majority rather on the basis of viability. The issue of language was mishandled by the central government. Bengali was later ondeclared as national language along with Urdu in the constitution of 1956.

Economic Disparity: Pakistan was not stable in respect of economic at the time of independence and the Eastern part was more backward. However, the Government took steps to improve the economic condition of the country but their main focus remained on the western wing. A lot of foreign aid and capital investments were received but its major share was spent in West Pakistan. Even Bengalis alleged that the benefits from their trade in jute were also used in Western part. Between the years 1949-1960 the per capita income increased in West Pakistan from Rs. 330 to Rs. 373; on the other hand, in East Pakistan it reduced from Rs. 305 to Rs.280. In short, West Pakistan was always 15% wealthier than the East Pakistan. By 1969, the difference had increased to 40%. It was 259 thought by the Bengalis that West Pakistan's economic growth had taken place due to the transfer of resources from East to West Pakistan. They claimed that the single largest Pakistani export was jute and that was grown in East Pakistan. On the other hand, the leading expense of the country was on defence to protect the borders with India. Most of the borders between two countries were in West Pakistan; therefore, the Bengali Pakistani thought that their money was spent on the protection of Punjabis (West Pakistanis), because there was no major border dispute between East Pakistan and India. The same situation was also observed in the fields of health and education. It was the matter of concern that in 1948, there were only 20 doctors and 3000 hospital beds in East Pakistan. Between the years 1947-1958 the numbers in primary school in West Pakistan increased by 150 per cent and in East Pakistan by 40 percent only. It should be remember that this disparity or inequality developed in the civilian period before the take over of military in Pakistan.

Political Alienation: The citizens of East Pakistan also complained that Bengalis were in majority in the Constituent Assembly. Governor Generals and Prime Ministers were nearly always from West Pakistan. Although, East Pakistan accounted for a slight majority of the country's population but political power remained firmly in the hands of West Pakistanis. The Bengali leaders remained unhappy with the One Unit scheme as they considered that it only counter balanced the East Wing votes. After the assassination of the First Prime Minister of Pakistan, Mr. Liaquat Ali Khan in 1951, political power was usurped by the Governor General of Pakistan and eventually, the military.

The East Pakistanis noticed that whenever one of them, such as KhawjaNazimuddin, Muhammad Ali Bogra or Hussain Shaheed Suhrawardy was elected prime minister of Pakistan, he was swiftly deposed by the largely West Pakistani establishment. The situation reached a climax when in 1970 the Awami League, the largest Pakistani Political Party led by sheikh Mujeeb-ur-Rehman won a landslide victory in the national election. However, Zulfikar Ali Bhutto the leader of the Pakistan People's Party (PPP) refused to allow Rahman to be the Prime Minister of Pakistan; instead he proposed the idea of having two prime ministers,

one for each wing. Bhutto also refused to accept Mujeeb's Six Points. On 3rd March 1971 two leaders along with president General Yahya Khan met in Dhaka to decide the fate of the country. Talks failed and this led to the breakup of Pakistan.

Military imbalance: Bengalis were under represented in the Pakistan Military. By 1965, there were only 5 percent Bengali officers in the armed forces and only a few in high positions, with the majority in technical and administrative posts. Moreover, despite huge defense spending East Pakistan received none of the benefits such as contracts, purchasing and military support job. The Indo-Pak war 1965 also highlighted the sense of military insecurity among Bengalis.

Sheikh Mujib-ur-Rehman and his Six Points: Sheikh Mujib-ur-Rehman became popular among the masses. He took advantage from the frustration of Bengalis. He put forward the demand of two separate economies for the country; one for the West Pakistan and other for the East Pakistan. This demand was rejected by Ayub Khan with the promise to improve the economic conditions of the country. Industrial development could not create the employment opportunities for Bengalis. The policy of free economy was adopted by General Ayub which was on the pattern of United States. Through this policy a class of industrialist was created in the country which owned more than 80 percent of the nation's wealth. This policy by Ayub Khan led to the alienation of the masses due to the deepening economic inequality and concentration of wealth in a few hands. The economy of East Pakistan was already weaker than West Pakistan and it gradually declined.

Why were Six Points rejected in West Pakistan? Great deal of provincial autonomy and direct elected government was one of the demands of Mujeeb included in his six points. This would have reduced the power of the central government over provinces. Semi-autonomous provinces and weak central government was accepted by Yahya Khan but Mujeeb wanted the full implementation of his demands. Another demand of the six points was economic independence. Major demands were separate currencies, taxation policy and trade agreements which would have reduced the flow of investments from East to West Pakistan. Another demand was the separate army troops for the East and West Pakistan. This way, West Pakistan would have lost control over army and the defense budget would have been reduced. So, the six points of Mujib were rejected by the people and politician of West Pakistan.

Response to the 1970 cyclone: The year 1970 brought a disaster in East Pakistan; the cyclone in the East Pakistan coastline destroyed a large number of people. It was estimated that almost 300,000 to 500,000 people died due to destructive cyclone. A week after this destruction, Yahya Khan, the president of Pakistan admitted that his government has made slips and mistakes in handling of the relief due to a lack of understanding of the disaster scale. After ten days

of the cyclone, the eleven political leaders in East Pakistan alleged the government with the charge of "gross neglect, callous and utter indifference". These Bengali leaders also blamed that the president tried to play down the importance of the difficulties in news coverage. Addressing a rally, Maulana Abdul Hamid Khan Bhashani demanded the resignation of the president. The Bengalis had been blaming the government and the president one side and on the other hand the Awami League banned the government activities of restoration. As time passed by, the conflict between East and West Pakistan accelerate. This disagreement led to the Bangladesh Liberation War in December 1971 and accomplished with the creation of Bangladesh.

Immediate Reasons: The First General Elections were held in Pakistan in January 1970 and the results were dreadful for West Pakistan. There were 313 seats for the National Assembly of Pakistan including 169 for East Pakistan and 144 for West Pakistan. The president Yahya Khan had the expectation that no party would be able to get the leading majority. Contrary to it, the Awami League led by Sheikh Mujib-ur-Rehman won the elections with leading majority. It was due to two reasons; first was the demagogue personality of Mujeeb and other was his agenda based on six points. He obtained overpowering majority in the elections and he stood in the position to form his government. It was surprising that the Awami League of Mujib-ur-Rehman acquired 167 seats out of 169 while the remaining two candidates also joined Awami League after results.

Pakistan People's Party was the second largest political party winning elections in the West Pakistan on the basis of "food, clothing and shelter" (roti, kapraaurmakan). According to the election results, now the government belonged to Awami League but the politician of West Pakistan had the judgment that the new constitution would be based on 6 points agenda which would reduce the traditional dominance of West in politics and it was unacceptable for them. Due to uncertainties, West Pakistan was unwilling to transfer power to Mujib. It caused unrest in East Pakistan. Bhutto proved inflexible and he demanded the power sharing with Awami League in the future government. Awami League was not willing to share power in any way because Sheikh Mujeeb-ur-Rehman was the leader of People of Pakistan securing 169 seats out of 313 while PPP achieved 81 seats. General Yahya Khan called the session of National Assembly on 3rd March 1971 in Dhaka. Zulfikar Ali Bhutto not only refused to attend the session in Dhaka but also threatened to break the legs of any party member if someone dared to go to Dhaka. It is said that Bhutto knew well that he could never be appointed the prime minister of the united Pakistan, so he resisted formation of the new government. Consequently, Yahya Khan postponed the session of Assembly without fixing the next date. It was not acceptable for Mujib and Bengalis.

As a result, the civil disobedience movement started in East Pakistan which deteriorated law and order situation. This rebellion was not handled properly and the Bengalis demanded their separation from Pakistan. The Negotiations among Yahya Khan, Mujeeb-ur-Rehman and Z. A. Bhutto held in Dhaka in March 1971 but failed as the leaders could not succeed to reach a compromise or agreement. As talks were last peaceful solution to the problems but Bhutto was demanding sharing in government which was refused by Mujeeb. This made military operation inevitable but it added fuel to the fire. Martial law was imposed in the country and Mujeeb-ur-Rehman was arrested. The Awami League was banned and press restrictions were imposed. General Tikka khan arrived in East Pakistan to suppress the Bengali rebellion but Bengali retaliated and formed MuktiBahini (a Bengali rebel army).

MuktiBahini was the Bengali word which means freedom fighters. This started a civil war in which thousands of civilians were killed and millions fled from East Pakistan to India. India had already been waiting for the same situation. India began to support Bengalis against West Pakistan. MuktiBahini was trained in the Indian Bengal and equipped by India. The Indian involvement strengthened the movement of separation of East Pakistan. In April 1971, USSR and India signed a friendship treaty ensuring USSR shall support India against West Pakistan. China helped Pakistan. At last in December 1971, the war between India and Pakistan started and within 2 weeks on 16th December 1971, Indian army surrounded Dhaka and forced Pakistan army to surrender.

Self-Assessment Questions:

1. Highlight the salient features of the Objectives Resolution.
2. Discuss the constitutional efforts after the Objectives Resolution till 1956.
3. Highlight the different aspects of the Basic Principles (Interim Report) 28 September 1950.
4. Highlight the importance of Muhammad Ali Bogra Formula (1953) in the light of the circumstances of that time.
5. Discuss the salient features of the Constitution of Pakistan 1956.
6. What were the important points of the Constitution of Pakistan in 1962?
7. Elaborate the situation of the downfall of Ayub Khan.
8. Evaluate the salient features of The Legal Framework Order (1970).
9. Describe the reasons and situation of the dismemberment of East Pakistan in 1971.

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Unit - 07

THE 1973 CONSTITUTION AND STATE STRUCTURE

Written By:
Noor Azmat

Reviewed By:
Prof. Dr. Abdul Rauf

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INTRODUCTION

This chapter is regarding the constitution of Pakistan 1973 and the state structure. Pakistan had to face a great challenge to frame the constitution. The constitution of Pakistan took about 9 years to frame its first constitution in 1956 and it took almost a decade for its formation. However, the country had to bear Martial rule in 1958 while the first constitution could not remain for more than two years. The next constitution was framed in 1962 during the reign of Ayub Khan but it also ended with the rule of Ayub Khan. Pakistan was dismembered in 1971 and another constitution was adopted by the parliament of Pakistan in 1973. In this unit the salient features of the constitution of Pakistan have been elaborated by the author. This is the constitution which was framed through the consultation and willingness of almost all the representatives of the political parties in the country. The constitution of Pakistan provides a structure of the state. In this unit, the structure of the state and the provinces has been discussed in detail.

Parliament of Pakistan is the supreme institution in the country. The parliament of Pakistan is consisting of two houses. The upper house is called senate of Pakistan while the lower house of the parliament is known as national assembly of Pakistan. This unit also illustrates the structure as well as the functions of the parliament. The structure of the federation of Pakistan has also been highlighted in this unit. Pakistan is an Islamic federation where parliamentary form of government has been adopted. Pakistan has a strong federation and the four provinces. The distribution of the power between center and provinces has also been discussed in detail.

OBJECTIVES

After studying this Unit, you will be able to know about:

1. the salient features of the constitution of Pakistan.
2. the structure of the state and provinces of Pakistan.
3. the structure and functions of the parliament of Pakistan.
4. the distribution of power between the centre and provinces.

7.1 SALIENT FEATURES

A constitution is the body of fundamental principles or established precedents according to which a state or other organization is acknowledged to be governed. In simple words, the constitution is a set of rules and the laws are prepared under these rules.

A constitution is a set of rules that regulates the nature, function and limits of the government and other institutions. Pakistan People's Party Government attached more importance to framing a permanent constitution of Pakistan. The National Assembly had already appointed a committee for the purpose even before the promulgation of the interim constitution. Although the People's Party enjoyed a two third majority in the National Assembly and could easily pass the constitution of its choice but it decided to associate all the other political parties with this sacred task of great national importance. The draft of the constitution was prepared with the consent of all the political parties. All the leaders of the parliamentary groups of the various political parties signed the draft of the constitution on 20th October 1972. It was collectively passed by the Assembly on 10th April 1973. The same was authenticated by the President of Pakistan Zulfikar Ali Bhutto on 12th April 1973. This Constitution, called the Constitution of the Islamic Republic of Pakistan 1973, was promulgated on 14th August 1973. The silent features of the constitution were:

Written constitution: It was a written document, very comprehensive in nature and consists of 280 articles and 7 schedules.

Objectives Resolution: The most important and introductory objective was that the Islam shall be the state religion. Pakistan to be an Islamic republic and the constitution emphasized that the prime minister and president should be Muslims. Objectives Resolution is included as the preamble of the constitution.

Islamic Constitution: The preparation of Islamic laws makes sure the implementation of Islamic system in the country.

Rigid constitution: It is considered a rigid constitution, as amendments cannot be made easily. It required two-thirds of the majority from both the houses to make the amendments.

Federal System: A Federal system was introduced within the federal and provincial government. In an emergency the federal government has the authority to pass any law and even suspend fundamental freedoms.

Federal Structure: Four provinces: according to constitution the country is divided in four provinces Khyber Pakhtunkhwa (Former NWFP), Punjab, Sindh and Baluchistan. Islamabad is the Federal Capital Territory while tribal and northern areas also included in Pakistan.

Parliamentary form of government: Parliamentary form of the government was introduced in the constitution. Pakistan to be a federal republic with a parliamentary system of government. The Prime Minister, chosen by the majority party to be head of the government.

- **Head of State:** President is considered as the head of the state, should be Muslim, not less than 45 years, to be elected by the parliament and provincial assembly for a period of 5 years. He had the power of dissolve the assembly on advice of prime minister, can summon the session of parliaments (before the 18th constitutional amendment).

  The president has the power to appoint governor, attorney generals and chief election commissioner chief of army, navy and air force.

- **Head of Government:** The Prime Minister is the head of government, he chooses his own cabinet, he is the leader of house, elected by National Assembly after 30 days of general elections.

Bicameral legislature: The Majlis Shoora (parliament) consists of 2 houses. Upper house is called the Senate of Pakistan, and it has 104 members. The lower house is called National Assemble and it has 342 members. When the members of the senate and national assemble gather it is called the parliament. The national Assembly is the house of people, and its tenure is five years. However, it can be dissolved any time. The Senate is house of provinces and its tenure is for six years. It cannot be dissolved and its half members get retirement after three years on their turn.

Method of election: The members of the national assembly and provincial assembly should be elected by the people through election. The members of upper house called Senators are elected by the provincial assemblies.

Structure of Judiciary: The constitution of 1973 emphasized the independence of the judiciary of the country. The Supreme Court and high courts in the country have the power and responsibility to enforce fundamental rights of the citizens. According to an act of parliament of 1997, the number of judges is 17 headed by a chief justice. Mr. Justice Qazia Faiz isa is the honourable Chief Justice of Pakistan.

The Judges of Supreme Court of Pakistan can hold their offices till the age of 65. There are five High Courts in Pakistan; each High Court is based in the capital city of one of the four provinces. The fifth high courts is situated in Islamabad. Each Court consists of chief justice and other judges. The judges of High Courts are appointed by president of Pakistan and chief justices of Pakistan.

National Language: Urdu was declared as the national language of Pakistan in the constitution of 1973. However, English will retain as the official language.

Rule of Law: The constitution determined the rule of law in Pakistan. According to this law no one can be deprived of the basic or fundamental right.

High Treason: According to the constitution the act of unconstitutional abrogation has been declared as the act of great treason. It has written in the constitution that if 'any person who abrogates or attempts or conspires to abrogate, subverts or attempts or conspires to subvert the constitution by use of force or show of force or by other unconstitutional means shall be guilty of high treason'.

Referendum: The constitution allowed the president to hold referendum on any national issue. Referendum should be in the form of question that is capable of being answered either by yes or no.

7.2 STRUCTURE OF THE STATE AND PROVINCES

Pakistan is federal administrative state where parliamentary form of government has been adopted. The central government is called the federal government, and it has a particular administrative structure. There are four provinces in the country and the provinces also have the structure of the government i.e. provincial government.

STRUCTURE OF THE FEDERAL GOVERNMENT

Pakistan's independence was won through a democratic and constitutional struggle. Although the country's record with parliamentary democracy has been mixed, Pakistan, after lapses, has returned to this form of government. The constitution of the Islamic Republic of Pakistan adopted in 1973 provides for a federal parliamentary system with a president as head of state and a popularly elected prime minister as head of government. As we know that Pakistan is an Islamic federal republic with a multiparty, parliamentary system of government largely based on the UK model. Islam is the state religion of Pakistan. The country is a federation with four federating Units or provinces, namely Punjab, Sindh, the Khyber Pakhtunkhwa Province (formerly known as the North-West Frontier Province, NWFP), and Baluchistan. Pakistan's federal Parliament, known as the Majlis-e-Shoora, is a bicameral legislature consisting of two houses—the National Assembly and the Senate. It makes up the legislative branch of Pakistan's political system. According to the National Assembly's Handbook for Members, the National Assembly is the country's sovereign legislative body. It embodies the will of the people to let them be governed under the democratic, multi-party Federal Parliamentary System. Through its debates, adjournment motions, question hour and Standing Committees, the National Assembly keeps a check over the Executive, and ensures that the government functions within the parameters set out in the Constitution and does not violate the fundamental rights of the citizens. Only

the National Assembly, through its Public Accounts Committee, scrutinizes public spending and exercises control of expenditure incurred by the government.

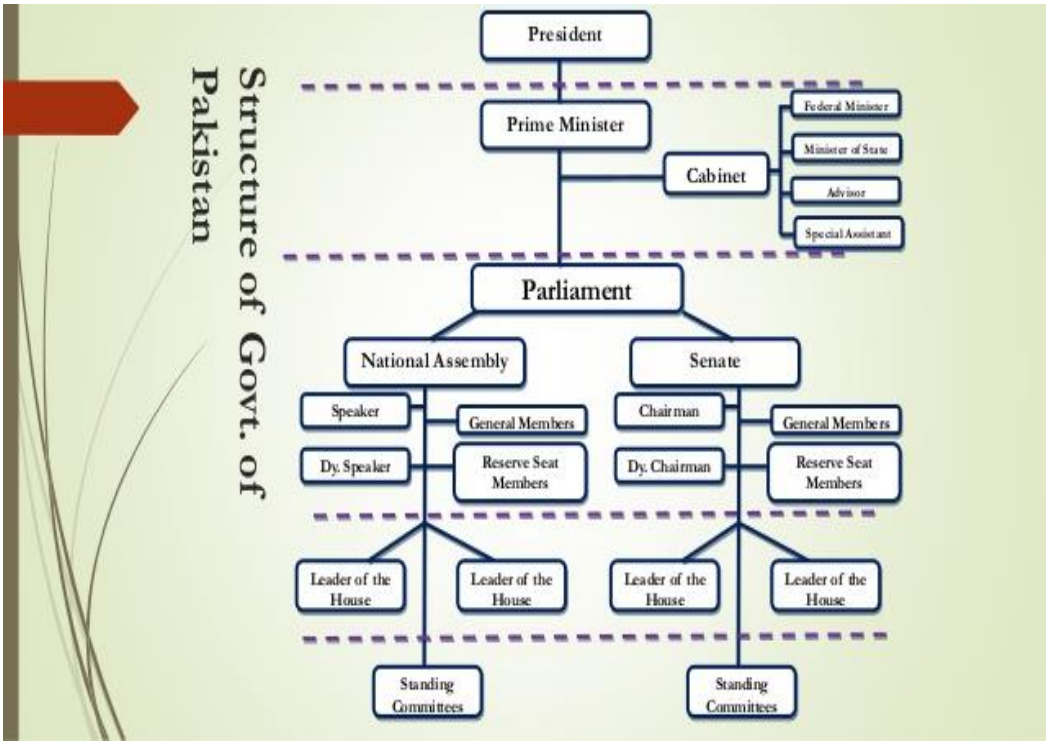
Article 90 of the Constitution states that "the executive authority of the Federation shall be exercised in the name of the President by the Federal Government, consisting of the Prime Minister and the Federal Ministers, which shall act through the Prime Minister, who shall be the chief executive of the Federation". The Cabinet Ministers are made up of members from both houses of Parliament. According to article 91(4) of the Constitution, the Cabinet "is collectively responsible to the National Assembly, which elects the Prime Minister." However, the number of Cabinet ministers who are members of the Senate must not exceed one-fourth of the number of federal ministers.

Article 41(2) of the Constitution stipulates that a person shall not be qualified for election as President unless he is a Muslim of not less than forty-five years of age and is qualified to be elected as a member of the National Assembly. The President is elected for a term of five years by an Electoral College consisting of the members of both houses of Parliament, as well as members of the provincial assemblies. The President is considered the head of state. The Prime Minister, who is the head of Government, typically comes to office as the leader of the majority party of the National Assembly.

The legislative powers of the federal parliament are stipulated by the Fourth Schedule of the Constitution of Pakistan, which provides a "Federal Legislative List" of matters over which Parliament has exclusive jurisdiction to legislate. Prior to the enactment of the Eighteenth Amendment to Pakistan's Constitution a "Concurrent Legislative List" existed, which enumerated shared or overlapping competencies with the provincial legislatures but where federal law prevails. After the amendment, fifty-three subjects were in the exclusive domain of the federal government; eighteen subjects in the domain of the Council of Common Interests (CCI), a constitutional body that allows "provincial governments to participate in the formulation of policy on a list of matters that fall under the jurisdiction of the federal government, but which inevitably concern provinces" and all residual subjects were devolved to the provincial governments. Those residual matters include such matters as "marriage, contracts, firearms possession, labor, educational curriculums, environmental pollution, bankruptcy, and 40 other diverse areas." With the Concurrent Legislative List eliminated, each provincial assembly had jurisdiction for drafting its own laws on such matters.

Pakistan is a federal republic with three tiers of government: national, provincial and local. Local government is protected by the constitution in Articles 32 and 140-A, and each province also has its own local-government-enabling legislation and ministries responsible for implementation. District councils and metropolitan corporations are respectively the highest rural and urban tiers of local

government in the provinces. Both urban and rural local government has two or three tiers in all provinces except Khyber Pakhtunkhwa, where councils are not identified as either urban or rural. There are 129 district councils across the four provinces, 619 urban councils made up of one city district, four metropolitan corporations, 13 municipal corporations, 96 municipal committees, 148 town councils, 360 urban union committees, and 1,925 rural councils. Additionally, there are 3339 neighborhoods, 'tehsil' and village councils in Khyber Pakhtunkhwa. Ability to raise local revenue varies according to provincial legislation. District councils and metropolitan corporations have significant responsibilities, often jointly with either higher provincial government – eg for policing (union guards), education, healthcare, roads and local economic development – or with lower levels of local government.



National and Federal Government:

Pakistan is a federal republic with a bicameral (bicameral is a system where parliament has two houses) elected parliament comprising two houses known as the Senate and the National Assembly. The head of state is the president, who is indirectly elected by an electoral college made up of the Senate, the National Assembly and Pakistan's four provincial assemblies. The 104 members of the Senate are either indirectly elected by the provincial assemblies or directly elected

from two of the territories. The Senate is made up as follows: 14 open seats, four women's seats, four seats for non-Muslims and four technocrat seats indirectly elected by each of the provincial assemblies (ie 88 seats in total); eight seats directly elected from the federally administered tribal areas; and four seats directly elected from the federal capital, to include one woman and one technocrat. Of the 342 seats in the National Assembly, 272 are filled by direct elections from single-member constituencies by universal adult suffrage through a single transferable vote; 60 are reserved for women and allocated proportionally to those parties which secure more than 5% of the vote in the national election; and ten are reserved for religious minorities. The prime minister is usually the leader of the largest party in the National Assembly. Pakistan is made up of four provinces and four federal territories. As of 2009, Gilgit-Baltistan has been a de facto province. The four provincial assemblies are directly elected with a membership of 371 in Punjab, 164 in Sindh, 124 in Khyber Pakhtunkhwa and 51 in Baluchistan. In each assembly just under 20% of seats are reserved for women and 2-5% for religious minorities. Now, after the 25 amendments in constitution of 1973, the Federally Administrative Tribal Areas" (FATA) area which was divided into seven agencies adjacent to the Afghanistan boarder are merged into Khyber Pakhtunkhwa.

The President of Pakistan

The president of Pakistan is considered as the symbol of unity and representative of all the nation. The president, in keeping with the constitutional provision that the state religion is Islam, must be a Muslim. Elected for a five-year term by an electoral college consisting of members of the Senate and National Assembly and members of the provincial assemblies, the president is eligible for reelection. However, no individual may hold the office for more than two consecutive terms. The president may resign or be impeached and may be removed from office for incapacity or gross misconduct by a two-thirds vote of the members of the parliament. The president generally acts on the advice of the prime minister but has important residual powers. One of the most important--a legacy of Zia--is contained in the Eighth Amendment, which gives the president the power to dissolve the National Assembly "in his discretion where, in his opinion . . . a situation has arisen in which the Government of the Federation cannot be carried on in accordance with the provisions of the Constitution and an appeal to the electorate is necessary".

The Parliament and Federal Government

The bicameral federal legislature is the Majlis-i-Shoora (Council of Advisers), consisting of the Senate (upper house) and National Assembly (lower house). Members of the National Assembly are elected by universal adult suffrage (over twenty-one years of age in Pakistan). Seats are allocated to each of the four

provinces, the Federally Administered Tribal Areas, and Islamabad Capital Territory based on population. National Assembly members serve for the parliamentary term, which is five years, unless they die or resign sooner, or unless the National Assembly is dissolved. Although the vast majority of the members are Muslim, about 5 percent of the seats are reserved for minorities, including Christians, Hindus, and Sikhs. Elections for minority seats are held on the basis of separate electorates at the same time as the polls for Muslim seats during the general elections.

The prime minister is appointed by the president from among the members of the National Assembly. The prime minister is assisted by the Federal Cabinet, a council of ministers whose members are appointed by the president on the advice of the prime minister. The Federal Cabinet comprises the ministers, ministers of state, and advisers. As of early 1994, there were thirty-three ministerial portfolios: commerce; communications; culture; defense; defense production; education; environment; finance and economic affairs; food and agriculture; foreign affairs; health; housing; information and broadcasting; interior; Kashmiri affairs and Northern Areas; law and justice; local government; minority affairs; narcotics control; parliamentary affairs; petroleum and natural resources production; planning and development; railroads; religious affairs; science and technology; social welfare; special education; sports; state and frontier regions; tourism; water and power; women's development; and youth affairs.

The Senate is a permanent legislative body with equal representation from each of the four provinces, elected by the members of their respective provincial assemblies. There are representatives from the Federally Administered Tribal Areas and from Islamabad Capital Territory. The chairman of the Senate, under the constitution, is next in line to act as president should the office become vacant and until such time as a new president can be formally elected. Both the Senate and the National Assembly can initiate and pass legislation except for finance bills. Only the National Assembly can approve the federal budget and all finance bills. In the case of other bills, the president may prevent passage unless the legislature in joint sitting overrules the president by a majority of members of both houses present and voting.

Other offices and bodies having important roles in the federal structure include the attorney general, the auditor general, the Federal Land Commission, the Federal Public Service Commission, the Central Election Commission, and the Wafaqi Mohtasib (Ombudsman).

Basic qualifications to be a member of Parliament are provisioned under Article 62 of the Constitution:

(1) A person shall not be qualified to be elected or chosen as a member of Majlis-e-Shoora (Parliament) unless—

(a) he is a citizen of Pakistan.

(b) he is, in the case of the National Assembly, not less than twenty-five years of age and is enrolled as a voter in any electoral roll in—

(i) any part of Pakistan, for election to a general seat or a seat reserved for non-Muslims; and

(ii) any area in a Province from which she seeks membership for election to a seat reserved for women.

(c) he is, in the case of the Senate, not less than thirty years of age and is enrolled as a voter in any area in a Province or, as the case may be, the Federal Capital or the Federally Administered Tribal Areas, from where he seeks membership.

(d) he is of good character and is not commonly known as one who violates Islamic Injunctions.

(e) he has adequate knowledge of Islamic teachings and practices obligatory duties prescribed by Islam as well as abstains from major sins.

(f) he is sagacious, righteous, non-profligate, honest and ameen, there being no declaration to the contrary by a court of law.

(g) he has not, after the establishment of Pakistan, worked against the integrity of the country or opposed the ideology of Pakistan.

The Judiciary

The judiciary includes the Supreme Court, provincial high courts, and the trial courts exercising civil and criminal jurisdiction. The chief justice of the Supreme Court is appointed by the president; the other Supreme Court judges are appointed by the president after consultation with the chief justice. The chief justice and judges of the Supreme Court may remain in office until age sixty-five. The Supreme Court has original, appellate, and advisory jurisdiction. Judges of the provincial high courts are appointed by the president after consultation with the chief justice of the Supreme Court, as well as the governor of the province and the chief justice of the high court to which the appointment is being made. High courts have original and appellate jurisdiction.

There is also a Federal Shariat Court consisting of eight Muslim judges, including a chief justice appointed by the president. Three of the judges are ulama, that is, Islamic Scholars, and are well versed in Islamic law. The Federal Shariat Court has original and appellate jurisdiction. This court decides whether any law

is repugnant to the injunctions of Islam. When a law is deemed repugnant to Islam, the president, in the case of a federal law, or the governor, in the case of a provincial law, is charged with taking steps to bring the law into conformity with the injunctions of Islam. The court also hears appeals from decisions of criminal courts under laws relating to the enforcement of hudood laws that is, laws pertaining to such offenses as intoxication, theft, and unlawful sexual intercourse.

In addition, there are special courts and tribunals to deal with specific kinds of cases, such as drug courts, commercial courts, labor courts, traffic courts, an insurance appellate tribunal, an income tax appellate tribunal, and special courts for bank offenses. There are also special courts to try terrorists. Appeals from special courts go to high courts except for labour and traffic courts, which have their own forums for appeal. Appeals from the tribunals go to the Supreme Court.

A further feature of the judicial system is the office of WafaqiMohtasib (Ombudsman), which is provided for in the constitution. The office of Mohtasib was established in many early Muslim states to ensure that no wrongs were done to citizens. Appointed by the president, the Mohtasib holds office for four years; the term cannot be extended or renewed. The Mohtasib's purpose is to institutionalize a system for enforcing administrative accountability, through investigating and rectifying any injustice done to a person through maladministration by a federal agency or a federal government official. The Mohtasib is empowered to award compensation to those who have suffered loss or damage as a result of maladministration. Excluded from jurisdiction, however, are personal grievances or service matters of a public servant as well as matters relating to foreign affairs, national defense, and the armed services.

The Provincial Governments

As we know that Pakistan has four provinces and each of the province has its own government. It is matter of pleasure that Pakistan's four provinces enjoy considerable autonomy. Each province has a governor, a Council of Ministers headed by a chief minister appointed by the governor, and a provincial assembly. Each province of Pakistan has its own elected legislative body known as a Provincial Assembly, which sits in the provincial capitals of Lahore, Karachi, Peshawar, and Quetta. Members of the provincial assemblies are elected by universal adult suffrage. Provincial assemblies also have reserved seats for minorities. Although there is a well-defined division of responsibilities between federal and provincial governments, there are some functions on which both can make laws and establish departments for their execution. Most of the services in areas such as health, education, agriculture, and roads, for example, are provided by the provincial governments. Although the federal government can also legislate in these areas, it only makes national policy and handles international aspects of

those services. Each of the provincial prepares and presents her annual budget every year almost in the month of June.

The top bureaucracy of provincial ministries inducted through Provincial Public Service Commission such as Punjab, Baluchistan, KP and Sindh Public Service Commission. Candidates get through exams of provincial management system and selected so that competent, efficient, and educated officers come to mainstream high bureaucracy. PMS consists of government-officers appointed directly in Grade-17 through this competitive exam at provincial level. The PCS—also known once as Provincial Civil Service, predecessor of the Civil Service of the Punjab—was established right after the inception of Pakistan. At first, Punjab Civil Services was divided in two cadres as Punjab Secretariat Service (PSS) and Punjab Civil Service Executive (Ex PCS). PSS officers used to be posted on secretarial assignments. On the other hand, Ex PCS officers used be serve in the field offices such as Commissioner, Deputy Commissioner and Assistant Commissioner. Later it was named as Provincial Management Service (PMS) by amalgamation of the above-mentioned cadres into one during devolution process in 2001. Its service rules, name as Provincial Management Service Rules 2004 were approved in 2004 and promulgated accordingly.

The recruitment in this elite provincial management service is as follows: -

1. Direct recruitment 50%
2. From low-scale officials of the Provincial government 10%
3. By promotion 40%

7.3 THE STRUCTURE AND FUNCTIONS OF THE PARLIAMENT OF PAKISTAN

The structure and the functions of the parliament of Pakistan are at larger scale. We have discussed in the above lines that the parliament of Pakistan is the supreme institution of the country. The functions of parliament of Pakistan are being discussed in the following lines.

Initially, the members of the Senate were 45 and were increased to 67 in 1977. Later on, in 1985 the number of members of the Senate was increased to 87. During the reign of General Pervez Musharraf, the number of members increased from 87 to 100 in August 2002.

Historical Services of the Senate of Pakistan

Pakistan came into being on 14th August 1947. After acquiring the independence, the 1stConstituent Assembly of Pakistan was founded. This assembly had 69 members and these members were elected in December 1945

before the partition of British India. This Constituent Assembly worked hard during the period of crises as Pakistan was newly established state while the father of nation Quaid-e-Azam Muhammad Ali Jinnah could not live long. On 12 March 1949, the Objectives Resolution was passed by the Assembly. This resolution was the foundation stone for the upcoming constitution of Pakistan. We can judge the responsibilities of the parliament in this context. Another important point to be remembered is that the first constituent assembly or the parliament of Pakistan was unicameral in nature and structure. The governor general Mr. Ghulam Muhammad dissolved the first constituent assembly of Pakistan in October 1954 with the allegation of slow performance.

During this period the political leaders of the country were under pressure and meanwhile, the second constituent assembly of Pakistan could not be elected through general elections as the country was in crisis in many aspects. Therefore, on 28th May 1955, the 2nd constituent assembly was created under order No. 12 of the Governor General of that time. The respective provincial assemblies performed the role of electoral colleges for this assembly. This assembly framed and passed the Constitution of Pakistan 1956, and it was promulgated in the country on 23 March 1956. According to the constitution, the parliamentary form of government was founded having the unicameral legislature.

The parliament performed its responsibilities very well even during the very tough time. On 7 October 1958 General Mohammad Ayub Khan imposed martial law and in this way, the Constitution of Pakistan 1956 was abrogated. In February 1960, the military ruler appointed a Constitution Commission to frame the constitution for the country. The Constitution of Pakistan 1962 was framed by the commission which was promulgated by Ayub Khan on 1 March 1962. According to the Constitution of Pakistan 1962, the presidential form of government was adopted while the legislature was unicameral like the previous constitution. This constitution was also abrogated while the country was run under this constitution till 25 March 1969.

The East wing of Pakistan was separated and in remaining the Constitution of Pakistan 1973 was framed to run the remaining Pakistan. This was developed by the National Assembly of Pakistan and its member have been elected on basis of the Election held in 1970. The new civil government under the leadership of Zulfiqar Ali Bhutto, came to power in December 1971 with an interim Constitution in 1972 to run the country. The Assembly formulated the Constitution of Pakistan 1973, it was passed on 12 April 1973 and promulgated on the birthday of Pakistan on 14 August in the same year.

In the light of the Constitution of Pakistan 1973, the Senate of Pakistan chooses its Chairman and Deputy Chairman from its members for a period of three years. The Chairman of the Senate presides over the sessions of the Senate. The

Chairman also performs the responsibilities as the acting president of the state in the absence of the president of Pakistan. Moreover, in the absence of the Senate's Chairman, the responsibilities of the president are performed by the speaker of the national assembly, but it happens rarely.

Mr. Habib Ullah Marwat (Birth: 14 October 1901) was the first chairman of the Senate of Pakistan who served the nation from 6 August 1973 till 4 July 1977. He died the following year in December 1978 at the age of 77. After the Martial law enforced by General Zia Ul Haq, the Senate of Pakistan remained suspended. Mr. Ghulam Ishaq Khan (Birth: 20 January 1915 at Banu) was elected the second Chairman of the Senate and performed the duties from 21 March 1985 to 12 December 1988. After the death of Presiding Zia Ul Haq, Mr. Ghulam Ishaq Khan served as the acting president of Pakistan from 17 August 1988 to 12 December 1988 for a period of 4 months. Then he was elected the president of Pakistan and continued his office till 18 July 1993. He died in Peshawar on 27 October 2006 at the age of 91 years.

The third Chairman of the Senate was Mr. Waseem Sajjad who remained the chairman for the longest period from 24 December 1988 to 20 March 1991. He again served as Chairman from 21 March 1991 to 20 March 1994. Once again, he was elected for the period of three years from 21 March 1994 to 20 March 1997. It is a matter of honour for Wasim Sajjad that the Senate elected him as the Chairman for another tenure and he served from 21 March 1997 to 12 October 1999 till the military takeover by General Pervez Musharraf. Mr. Wasim Sajjad was born on 30 March 1941, and he is now almost 83 years old (till March 2024). He belongs to the province of Punjab and is politically affiliated with Pakistan Muslim League (N). From 1999 to 2003 the Senate remained suspended under the General Musharraf regime. Mr. Wasim Sajjad served as an acting president of Pakistan twice from 18 July 993 to 14 November 1993 and 02 December 1997 to 01 January 1998.

The fourth Chairman of the Senate was Mr. Muhammad Mian Soomro, who was elected as a chairman twice and served the nation from 23 March 2003 to 11 March 2009. He also served as the acting president of Pakistan from 18-08-2008 To 09-09-2008. He was born in Karachi on 19 August 1950 and now is 73 old (Till March 2024). Farooq Hamid Naek remained the chairman from 12 March 2009 to 11 March 2012. Mr. Nayyar Bukhari served from 12 March 2012 to 11 March 2015. Raza Rabbani served from 12 March 2015 to 11 March 2018.

The very first chairman of the Senate Mr. Habibullah Marwat was affiliated with the Pakistan Peoples Party while the second Chairman Mr. Ghulam Ishaq Khan had no political affiliation with any party but came from civil service. Both belonged to the province of Khyber Pakhtunkhwa. Mr. Wasim Sajjad remains the longest-serving chairman who served more than a decade. He was politically

affiliated with the Pakistan Muslim League (N) and belonged to the province of Punjab. Mohammad Mian Soomro was affiliated with the Pakistan Muslim League(Q) while Farooq Naek, Nayyar Bukhari, and Razza Rabbani were the senators of Pakistan PeoplesParty, and all four senators belonged to the province of Sindh. Senator Mr. Muhammad Sadiq Sanjraniwas elected on 12 March 2018 is the current chairman of the Senate. He is the first Chairman to belong to the province of Baluchistan and is politically affiliated with the Baluchistan Awami Party.

According to the Constitution of Pakistan 1973, the Senate of Pakistan always played its constitutional responsibility during the presidential elections of Pakistan. The Chairmen of the Senate always performed the responsibilities of acting President of Pakistan. Through the discussion of the above lines, we can conclude that the Senate of Pakistan has been performing its duties very well in all the tough and critical political situations.

The Senate of Pakistan's Structure

Initially, the members of the Senate were 45 and were increased to 67 in 1977. Later on, in 1985 the number of members of the Senate was increased to 87. During the reign of General Pervez Musharraf, the number of members increased from 87 to 100 in August 2002 (through LFO 2002). The government of Mr. Asif Ali Zardari increased the number of members of the Senate of Pakistan from 100 to 104 through the 18th Amendment in 2011. During the period from 16 November 1988 to 12 October 1999, the state of Pakistan observed four (4) parliaments; however, all of which failed to complete their period of five years. The National Assembly of Pakistan established after the elections of 2002 elections became the first in the history of Pakistan to complete its term till November 2007.

General Zia ul Haq imposed martial law on 5 July 1977 and the political activities once again cooled down for a decade. In November 1985, the new parliament was formed in response to the non-party-based elections. Muhammad Khan Junejo became the Prime Minister of Pakistan on 24 March 1985. The office of the President of Pakistan was being operated by General Zia ul Haq. Junejo was dismissed on 29 May 1988 in response to the power used by President General Zia ul Haq when he dissolved the Assembly under Article 58(2)(b). Zia ul Haq died in an incident in Bahawalpur on 17 August 1988 and the general elections were held after his death. Mr. Ghulam Ishaq Kahn served as chairman senate from 21 March 1985 to 12 December 1988. In response to the sudden death of Zia ul Haq, he worked as president of Pakistan from 17 August 1988 to 18 July 1993.

All the provincial assemblies of the provinces elect twenty-three (23) members from their respective provinces including fourteen (14) on general seats, four (4) on seats reserved for technocrats including Ulema, four (4) on seats reserved for women and one (01) on the seat reserved for non-Muslims. Four

members i.e. two on general seats, one technocrat including Aalim and one woman are elected from the Federal Capital Area of Pakistan.

The Senate of Pakistan is a permanent legislative body that cannot be dissolved like a national assembly. The Senate symbolizes a procedure of continuity in national affairs. The duration of its members is six (6) years. However, one-half of its members took retirement after every three years. A casual vacancy or post in the Senate, produced by the resignation of any member, death, incapacitation, ineligibility or elimination of a member, is filled through the elections by the respective Electoral College and the member so elected holds office for the unexpired term of the member instead of 6 years.

The criteria for the membership of the Senate of Pakistan for an individual minimum of thirty (30) years of his / her age and should be a registered voter in an area or province from where he/she seeks election. The individual should also meet other qualifications or criteria prescribed under Article 62 of the Constitution of Pakistan 1973.

Chairman and Deputy Chairman

After the election of the Senate of Pakistan, it elects a chairman and a deputy chairman from its members at its first meeting. Whenever the post of the chairman or the deputy chairman is vacant, the Senate elects another member for the vacant post. The tenure for the office of the chairman and the deputy chairman is for a period of three years. In the absence or unavailability of the chairman, the deputy chairman works as the acting chairman.

Structure of the National Assembly of Pakistan

The Constitution of Pakistan 1973 provides a parliamentary form of government and a bicameral legislature. The legislature consists of the National Assembly of Pakistan and the Senate of Pakistan. The detail of the members of the National Assembly of Pakistan is as follows.

According to the article 51 of the Constitution of Pakistan 1973, “here shall be [three hundred and thirty-six] seats for members in the National Assembly, including seats reserved for women and non-Muslims”.

Distribution of the Seats of N/A of Pakistan

Province / Area	General Seats	Women Seats	Non-Muslim	Total Seats
Baluchistan	16	4	-	20
Khyber Pakhtunkhwa	45	10	-	55
Punjab	141	32	-	173

Sindh	61	14	-	75
Federal Capital	3	-	-	3
-	-	-	10	10
Total	266	60	10	336

Source: Website of National Assembly of Pakistan

The National Assembly of Pakistan is the lower house of the parliament and represents of people of Pakistan. It has a total of 336 members including a Speaker, Deputy Speaker, and the Prime Minister of Pakistan. The members of the National Assembly of Pakistan are elected through direct elections and the people of Pakistan elect their representatives through their votes. The members of the National Assembly are called MNAs. After the completion of the general elections, the members of the assembly elect the Prime Minister of Pakistan. The Prime Minister of Pakistan is elected through the indirect elections. The members also elect the Speaker and Deputy Speaker of the assembly.

The tenure of the National Assembly is for a period of a maximum of five years. However, the assembly may be dissolved by the president of Pakistan if the government is unable to run the country smoothly. Many times, in the history of Pakistan, presidents of the Islamic Republic of Pakistan used their presidential power and dissolved the national assembly using the Article 58-2(B). However, after the 18thconstitutional amendment, the President can dissolve the National Assembly of Pakistan on the advice of the Prime Minister of Pakistan. "The 1973 Constitution provides for a parliamentary form of government where the executive authority of the state vests with the Prime Minister. The President, according to the Constitution, is at the apex, representing the unity of the Republic".

Eligibility for the Prime Minister

The Constitution of Pakistan 1973, requires that the prime minister be a member of the National Assembly while the other criteria are as under:

Nationality: Should be a citizen of Pakistan.

Religion: Should be a Muslim

Age: Should be above 25 years

Character: Should be able to prove good conduct of character and be not involved in violation of Islamic injunctions

Islamic teachings: Must have adequate knowledge of Islamic teachings and practice obligatory duties prescribed by Islam, as well as abstaining from major sins.

The ideology of Pakistan: never worked against the integrity of the country or opposed the ideology of Pakistan.

The prime minister of Pakistan is required to take the oath of his office, in the presence of the president, an oath or affirmation that they shall protect, preserve and defend the Constitution of Pakistan.

Removal of Prime Minister:

The prime minister of Pakistan can be removed from his office before the ending of the tenure via a vote of no confidence in the parliament. If t a simple majority of the members of the National Assembly passed a vote of no confidence, the prime minister terminates to maintain the office of premiership. In the history, prime ministers of the countryor their governments were terminated by the president exercising the 8th Amendment to the Constitution of Pakistan (1985) under 58-2(B); However, is was abolished by the 18th constitutional Amendment 2010.

It is to be remembered that the prime minister of the country has absolute constitutional protection from criminal and civil proceedings, and no proceedings can be started or continued against him throughout the term of his office.

Eligibility for the Voter of National Assembly

A person of any sex, who is a citizen of Pakistan with a minimum age of 18 years having the CNIC and not being declared by a competent court to be of unsound mind and is or is deemed to be a resident of an electoral area, can get enrolled himself as a voter in that electoral area. If a person has all the criteria but has not registered in the voters' list maintained by the Election Commission of Pakistan (ECP) will not be eligible to cast a vote.

Functions of the National Assembly of Pakistan

According to article 50 of the constitution of Pakistan 1973, the parliament of Pakistan includes the National Assembly, Senate, and the President of Pakistan. A parliamentarian is a person who is a member of the parliament. He is expected to act in three lawmaking roles: (1) an enactor of the effective legislation, (2) an overseer of its implementation, and (3) a communicator with constituents. His or her success in three areas depends on the capacity of the Member to undertake the following assignment:

- Assessment of a bill in the public interest.
- Understanding the role of committees and participation in a positive way.
- Utilization of research support to collect evidence for in-depth analysis of a bill; and
- Maintaining the public input to the process of legislation to instigate the required social change.

Business of the House

Parliament has a variety of tasks to do for the nation. TheSecretary issues a notification to publish in the Gazette when the national assembly is summoned, stating the starting date, time and the place. It is sent to all the Members. The government issued a calendar for sessions of the assembly to the speaker of national assembly after the initiation of each legislative year.

There shall be a minimum of three sessions of the assembly in a year, and there should not be the interval of more than 120 days between the last sitting and in one session and date fixed for its first sitting in the next session. The assembly should work minimum to 130 days in a parliamentary year.

The national assembly of Pakistan discuss the government bills, resolutions, amendments, and other motions presented or initiated by a Minister. The assembly also discusses the bills presented by private members.

The National Assembly permitsto Membersto raise a matter of immediate public importance of the member wish. The member submitsit in writing to the secretary and it is mostly three days advance on which the matter is required to be raised in the assembly. The member mentions the points to be raised.

Legislative Process

Legislation or law-making is the basic and fundamental responsibility of the two Houses of Majlis-e-Shoora (Parliament), i.e. the Senate and the National Assembly. A bill is called a legislative statement and it may become an Act of Parliament after getting approval from both Houses and duly approved by the President of Pakistan.

Types of Bills:

The types of bills are being discussed in the following.

Government Bills: Introduced by a minister and passed by a simple majority.

Private Member's Bill: Introduced by any Member of the House & passed by a simple majority.

Constitution Amendment Bill: A bill regarding the amendments in the Constitution requires a two-thirds majority of the national assembly and senate to pass. Ite can be initiated in any house; however, most of the bills are originated by the national assembly.

Money Bill:A government bill that deals with matters of revenues and expenditures. It originated in the National Assembly. After the approval of the national assembly, the bill is sent to the senate within seven days.

Steps of Legislative Process: from a Bill to an Act

Introducing a Bill: while introducing a new bill there should be three copies of the bill to be introduced along with a statement of objectives and the reasons shall accompany a 10-day written notice to the secretary to encourage a bill.

Order of The Day:the motion to launchthe bill of private membershall be set down on the orders of the day for the day of private members and the copies of this billwill be distributedamong the members.

Consultation with the Islamic Ideologicial Council:: All the bills should be according to Islam. Therefore, sometimes the bills are referred to the Council of Islamic Ideology for discussion or advice regarding the bill.

1st Reading Discussion on Principles of Bill: The purpose of the circulation of bill among the members is to obtain their opinions in addition to discussing principles of the said bill.

Reference to Committees: All the bills other than the financial matters (or money bill)continue to be referred to the relevant standing committee or selected committee for further recommendations.

Committee's Recommendation: After the judgment of the bills, the committee may permit the bill to be engaged into consideration as a whole, the regarding specific clauses or alterations only or with instructions to make certain or additional provisions in the bill.

2nd Reading-Amendments: From the day a bill, 1 day notice of modifications is to be considered has to be handed by a member. Therefore, the whole bill, clause by clause, is going under thorough reading (second reading)while the speaker of the national assembly decides if modification proposed meets the criteria of admissibility of not.

3rd Reading – Debate: The members debate on the general character of a bill either in support or to refuse the bill. This may be noted that only voice changes can be moved at this stage.

Vote: After the thorough debates, the speaker of National Assembly puts the action for the outcome of the assembly or House.

Transmission of Bills to Senate: The bills are usually initiated from the lower house, but it is not restricted. The bills may be initiated from any house i.e. Upper Houe or from the Lower House. But the bills concerned with finance or the money bill cannot be moved from the Senate but it must be initiated from the National Assembly. When the bill is passed by the House in which it was initiated, this is forwarded to the other House. The same discussion is repeated once again and after thorough discussion the bill may be passed, or it may be sent back to

reconsideration. If the bill is passed from both houses, it is forwarded to the President of Pakistan for approval. Usually, the president approves the bill. In case the president has some observations, he sent the bill back to the houses for amendment. The bill must be approved by the president after the discussion whether the houses change the bill or not.

Promulgation: When the President of Pakistan approves a bill;immediately, the secretary ensuresthe publication of the bill in the Gazette as an Act of Majlis-e-Shoora.

Ordinances: The President of Pakistan has the legal authority to promulgate an Ordinance which has the same effect. Usually, the Presidential ordinance is issued when the assembly is not in session or inactive. It remains valid for the period of four months. Within the period of four months, it is put forth in both houses where it may be accepted or rejected. If the presidential ordinance is regarding a financial matter, it will be sent only at the national assembly. Moreover, the President may withdraw the Ordinance".

Legislation related to Budget:

Budget Stages There are four stages of a budget process which is cyclical in nature as soon as one cycle is completed the next begins: Formulation, Preparation of budget proposals by the executive/government. Enactment, Formal authorization by the n Parliament/legislator. Execution – Implementation to ensure that expenditures reflect the enacted budget. Audit – Examination and verification of both receipts and expenditures at the end of the financial year (1st July – 30th June).

Role of the Legislator: The Money Bill (it also contains the Finance Bill), commonly known as the budget, originates in Parliament. The Parliament is also the custodian of the Federal Consolidated Fund. It is therefore binding upon the federal government to lay before the National Assembly the estimated receipts and expenditure for approval. In Pakistan, the role of the legislator has historically been mostly limited to the second stage of the budget process i.e. authorizing the budget. During this stage the budget is tabled before the National Assembly for debate with little time allowed (about two weeks prior to approval). The budget is also laid before the Senate, which can only make recommendations to the National Assembly, which may accept or reject any number of them. In February 2007, the Senate initiated a mid-term budget review to provide the government with their insights to budget priorities earlier in the process. At the audit stage, the Public Accounts Committee (PAC) of the National Assembly plays the important role to scrutinize all expenditures authorized by the National Assembly based on its examination of the report of the Auditor General of Pakistan. The deliberations and findings made by the PAC are then presented in a report to the National Assembly.

7.4 DISTRIBUTION OF THE POWER BETWEEN CENTER AND PROVINCES

According to the constitution of Pakistan 1973, Islamic Republic of Pakistan has federal parliamentary system. Pakistan has a federal government and the four provinces. These provinces are Baluchistan, Punjab, Sindh and Khyber Pakhtunkhwa. One Unit of semi-autonomous federally administered tribal areas of Pakistan have been merged in the Khyber Pakhtunkhwa in 2018 through the Twenty-fifth Constitutional amendment to the Constitution of Pakistan 1973.

The Islamabad Capital Territory covers the capital city pf Pakistan, while there are two self-governing administrative regions of Azad Kashmir and the Gilgit-Baltistan a part of the federation of Pakistan. The federal government has its Majlis Shura which is called parliament. The parliament of Pakistan has two houses like the parliament of India and the United Kingdom. In our neighboring country India, the upper house and lower house are called Maha Sabha and Lok Sabha respectively. In United Kingdom the same are titled as the House of Lords and the House of Commons. In Pakistan the upper house is called Senate while the lower house is the National Assembly of Pakistan.

The system of local governance in Pakistan consists of the following three tiers:

1. Districts,
2. Tehsils (sub-districts), and
3. The Union Councils.

Eachtier has its elected bodies. In total, there are around 149 districts, 588 Tehsils, and many thousands union councils across the country.

Pakistan has a graded structured court system with two classes of court. One of theseis the superior while the other is subordinate judiciary. The superior judiciary is delegated to preserve, protect, and defend the Constitution and is comprised of the Supreme Court of Pakistan (the highest court), the Federal Shariat Court, and five High Courts including Islamabad High Court and four other provincial courts. The Supreme Court of Pakistan stands at the apex, and one high court serves each province, with the last serving the Islamabad Capital Territory. The regions of Azad Kashmir and the Gilgit-Baltistan have their own court systems. The subordinate judiciary of Pakistan consists of the civil and criminal district courts in all districts of the country.

The most important federal challenge for Pakistan is a geographically and demographically diversity. Pakistan is a multi-lingual, multi-cultural, multi-regional, multi-ethnic and multi-religious country. Federation of Pakistan has been working to strength the nation thorough empowering its provinces and tribal areas.

The 18th Constitutional Amendment by the government of PPP is an example in this regard. The maintain the national integrity and to keep the nation united is another important role of the federal government of Pakistan. The Eighteenth Amendment of the Constitution of 1973 was passed by the National Assembly of Pakistan on 8 April 2010 during the tenure of Prime Minister of Pakistan, Yousaf Raza Gillani. The amendment dealt with removing the power of the President of Pakistan to dissolve the National Assembly unilaterally. It turned Pakistan from a semi-presidential to a parliamentary form of government. According to the same amendment, various departments and powers of the federal government were transferred to the provinces.

The federal government in the reign of Pakistan Peoples Party issued an "Empowerment and Self-Governance Order 2009" in September 2009 to provide the maximum autonomy to the people of Northern Areas of Pakistan. The government of Pakistan renamed the Northern Areas of Pakistan as "Gilgit-Baltistan". The government provided them with a province-like status. According to the Order 2009 Chief Minister was provided the status as leader of the Legislative Council, Public Services Commission, the Chief Election Commissioner and the Auditor General. The Northern Areas of Pakistan historically are the part of Kashmir region and are rich in natural resources. These are the important areas due to water resources.

Self-Assessment Questions:

1. Describe the salient features of the Constitution of Pakistan 1973 in detail.
2. Evaluate the structure of the state and provinces of Pakistan.
3. Highlight the structure and functions of the Parliament of Pakistan in detail.
4. Keeping in view the structure of the federation of Pakistan, discuss the distribution of the power between center and provinces.

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Unit-8

FUNDAMENTAL RIGHTS: PRINCIPLES OF POLICY AND RESPONSIBILITIES

Written By:
Sajida Parveen

Reviewed By:
Prof. Ejaz Hussain Minhas

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INTRODUCTION

The idea of the human rights is not a new one. Islam had provided the fundamental human rights to all the citizens of the earth. The idea and concept of the rights remained different in diverse societies. The history of the world is also rich with the examples in respect of the destruction of human rights.

When we talk about the human rights, it is impossible to neglect the "Universal Declaration of Human Rights (UDHR)" which is an international document or written script adopted by the United Nations General Assembly. This Declaration enshrines the rights and freedoms of all human beings in all over the world. UDHR has the importance even today in all over the world as it provides the guarantee to the human beings regarding the protection of their rights. The Declaration was announced and accepted by the United Nations General Assembly in 1948. Pakistan also has signed on this document and the state of Pakistan was willing to protect the human rights within its territorial boundaries.

The constitution of Pakistan 1973 provides the vast human rights in its articles 8-28. The citizens of Pakistan have been awarded the social, political, economic and educational rights without the discrimination of colour, gender, linguistic, region and religion.

In this unit, the author has also discussed the Principles of Policy. The Principles of Policy are the part of the Constitution of Pakistan 1973. These principles are the articles of the constitution i.e. article 29 to article 40. Islamic way of life, promotion of local government institutions, discouragement of parochial and other similar prejudices, full participation of women in national life, protection of family system, protection of religious minorities, promotion of social justice and eradication of social evils, promotion of social and economic well-being of the people, equal participation of people in Armed Forces, and strengthening bonds with Muslim world and promoting international peace are the principles of policy written in the constitution of Pakistan.

In this unit, the responsibilities of the citizens of Pakistan have also been elaborated in the light of Article 5 of the Constitution of Pakistan. At the end of the unit, the author has discussed the issues faced by the common citizens of Pakistan due to the violation of human rights in the country.

OBJECTIVES

After reading this chapter, you will be able:

1. to know about the Idea and concept of fundamental rights and the global perspective of human rights.
2. to learn about the fundamental rights of the citizens of Pakistan provided in the Constitution of Pakistan 1973.
2. to know about the Overview of the Principles of Policy in the light of Articles 29-40.
3. to learn about the responsibilities of Pakistani citizens in the light of the Constitution of Pakistan 1973.
4. to learn about the violation of Human Rights in Pakistan and the efforts of the government of Pakistan for the protection of human rights in the country.

8.1 THE IDEA AND CONCEPT OF FUNDAMENTAL RIGHTS: A GLOBAL PERSPECTIVE

The concept of the provision of rights is ancient like humans. The last Prophet 'Khatam-un-Nabiyeen' has given all the rights to humanity. However, in the modern world; when we discuss human rights the role of Abraham Lincoln has a historical value as he announced the slaves as a free member of society. A famous historian 'Eric Foner' explained that.

"Lincoln said during the Civil War that he had always seen slavery as unjust. He said he couldn't remember when he didn't think that way - and there's no reason to doubt the accuracy or sincerity of that statement', in addition to it, the problem arises with the next question: What do you do with slavery, given that it's unjust? Lincoln took a very long time to try to figure out exactly what steps ought to be taken".

The history is also rich with the examples regarding the violation of human rights. The concept of the rights remained different in various societies. The world today appreciates the countries and states that provide and protect the fundamental rights to their citizens. The United Nations has been working for the dignity, fairness, equality, respect and independence of the human beings in all over the world. The United Nations' institutions work for the human rights for its member states. For this purpose, the United Nations and its institution have been working for the humanity after the 2nd World War. The Universal Declaration of Human Rights and the "Convention on the Rights of the Child" are the most important efforts for the provision of human rights for all over the world.

The "Universal Declaration of Human Rights (UDHR) is an international document adopted by the United Nations General Assembly that enshrines the rights and freedoms of all human beings." UDHR has the importance even today in all over the world as it provides the guarantee to the human regarding their rights. The Declaration was announced and accepted by the United Nations General Assembly in 1948.

It was the document that provided protection to human beings first time in the world. It expressed the rights and freedoms of human beings. Today, the Declaration is accessible in more than 360 languages of the world. It is considered that the Declaration of Human Rights is the most translated document in the world. According to Mr. Ban Ki-moon, the former Secretary-General of the United Nations said:

"The commitment of the United Nations to human rights stems from the Organization's founding Charter. The international community has a duty to uphold and defend these rights. Let us ensure that those people who most need their rights protected are made aware that this Declaration exists, and that it exists for

them. Let us each do our part to make these universal rights a living reality for every man, woman and child, everywhere".

According to the article 1 of the Declaration "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood". In this context if we see the situation of provision of rights in Pakistani society, the implementation of this article is rare.

According to the article 2 of the same Declaration "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty". Although the Declaration provides the right of freedom, but the ground situation is not as well in Pakistan. The violation of rights has become a routine in our country. The reports of Human Rights Commission of Pakistan (HRCP) show that the citizens have to face the discrimination on the basis of sex, race and religion in the country.

The Declaration's Article 3 provides the "right to life, liberty and security to everyone. However, developing countries like Pakistan, the citizen cannot enjoy these rights in their societies.

Article 4 of the 'Universal Declaration of Human Rights' declares that "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms". In this regard, Pakistan could not practically implement as there are various private jails owned by the landlords where the poor peasants are kept.

8.2 FUNDAMENTAL RIGHTS AND CONSTITUTION OF PAKISTAN 1973 (ARTICLE 8-28)

The Constitution of Pakistan 1973 provided the fundamental rights to all citizens of Pakistan including the freedom of speech, the freedom of thought, the freedom of religion, the freedom of association, the freedom of the press and the freedom of assembly. In this section we discuss the human rights in detail which are awarded to the citizens of Pakistan through the Constitution of Pakistan (1973).

Part II, Chapter I of the Constitution of Pakistan 1973 describes the Fundamental Rights of the citizens of the state. According to the article 8:

"Laws inconsistent with or in derogation of fundamental rights to be void.

(1) Any law, or any custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by this Chapter, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights so conferred and any law made in contravention of this clause shall, to the extent of such contravention, be void.

(3) The provisions of this Article shall not apply to:-

(a) any law relating to members of the Armed Forces, or of the police or of such other forces as are charged with the maintenance of public order, for the purpose of ensuring the proper discharge of their duties or the maintenance of discipline among them;" or

Article 9 of the constitution of Pakistan provides the right of liberal life to its citizens.

"Security of person. No person shall be deprived of life or liberty saves in accordance with law."

Article 10 of the Constitution is regarding to protection of the citizens. The constitution says:

"Safeguards as to arrest and detention.

(1) No person who is arrested shall be detained in custody without being informed, as soon as may not be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before a magistrate within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the nearest magistrate, and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall be made except to deal with persons acting in a manner prejudicial to the integrity, security or defence of Pakistan or any part thereof, or external affairs of Pakistan, or public order, or the maintenance of supplies or services, and no such law shall authorise the detention of a person for a period exceeding [three months] unless the appropriate Review Board has, after affording him an opportunity of being heard in person, reviewed his case and reported, before the expiration of the said period, that there is, in its opinion, sufficient cause for such detention,

and, if the detention is continued after the said period of [three months], unless the appropriate Review Board has reviewed his case and reported, before the expiration of each period of three months, that there is, in its opinion, sufficient cause for such detention".

Article 11 discourages the forced labour in the state:

(1) Slavery is non-existent and forbidden and no law shall permit or facilitate its introduction into Pakistan in any form.

(2) All forms of forced labour and traffic in human beings are prohibited.

(3) No child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment.

(4) Nothing in this Article shall be deemed to affect compulsory service:-

  (a) by any person undergoing punishment for an offense against any law; or

  (b) required by any law for public purpose provided that no compulsory service shall be of a cruel nature or incompatible with human dignity".

Article 12 provides the protection of punishment to the innocent citizens:

(1) No law shall authorize the punishment of a person:-

  (a) for an act or omission that was not punishable by law at the time of the act or omission; or

  (b) for an offense by a penalty greater than, or of a kind different from, the penalty prescribed by law for that offense at the time the offense was committed."

According to Article 13 of the Constitution of Pakistan, no person shall be awarded double punishment for one crime:

"No person: -

  (a) shall be prosecuted or punished for the same offense more than once; or

  (b) shall, when accused of an offense, be compelled to be a witness against himself.

Article 14 of the Constitution provides the dignity of citizens:

(1) The dignity of man and, subject to law, the privacy of home, shall be inviolable.

(2) No person shall be subjected to torture for the purpose of extracting evidence".

Article 15 provides the freedom of movement to every citizen:

"Every citizen shall have the right to remain in, and, subject to any reasonable restriction imposed by law in the public interest, enter and move freely throughout Pakistan and to reside and settle in any part thereof".

Article 16 of the constitution provides the freedom of assembly to the citizens:

"Freedom of assembly. Every citizen shall have the right to assemble peacefully and without arms, subject to any reasonable restrictions imposed by law in the interest of public order".

Moreover, the constitution of Pakistan provides the freedom of association to the citizens through article "17: (1) Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of [sovereignty or integrity of Pakistan, public order or morality]".

Article 18 of the Constitution provides the right of business:

"Subject to such qualifications, if any, as may be prescribed by law, every citizen shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business: Provided that nothing in this Article shall prevent:-

(a) the regulation of any trade or profession by a licensing system; or

(b) the regulation of trade, commerce or industry in the interest of free competition therein; or

(c) the carrying on, by the Federal Government or a Provincial Government, or by a corporation controlled by any such Government, of any trade, business, industry or service, to the exclusion, complete or partial, of other persons".

The freedom of speech is also a fundamental right of the citizens and it has been provided in Article 19:

"Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, [commission of] or incitement to an offence".

Article 20 gives the right to profess religion and to manage religious institutions to the citizens.:

"Subject to law, public order and morality:-

(a) every citizen shall have the right to profess, practice and propagate his religion; and

(b) every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions".

According to article 21:

'No person shall be compelled to pay any special tax the proceeds of which are to be spent on the propagation or maintenance of any religion other than his own".

Moreover, in the light of article 22:

(1) No person attending any educational institution shall be required to receive religious instruction, or take part in any religious ceremony, or attend religious worship, if such instruction, ceremony or worship relates to a religion other than his own.

(2) In respect of any religious institution, there shall be no discrimination against any community in the granting of exemption or concession in relation to taxation.

(3) Subject to law:

(a) no religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any educational institution maintained wholly by that community or denomination; and

(b) no citizen shall be denied admission to any educational institution receiving aid from public revenues on the grounds only of race, religion, caste or place of birth.

(4) Nothing in this Article shall prevent any public authority from making provision for the advancement of any socially or educationally backward class of citizens".

The fundamental right to acquire property has been awarded in Article 23 of the Constitution:

"Every citizen shall have the right to acquire, hold and dispose of property in any part of Pakistan, subject to the Constitution and any reasonable restrictions imposed by law in the public interest'.

The next article of the Constitution of Pakistan (article 24) is regarding the protection of property:

(1) No person shall be compulsorily deprived of his property save in accordance with law.

(2) No property shall be compulsorily acquired or taken possession of save for a public purpose and save by the authority of law which provides for compensation therefore and either fixes the amount of compensation or

specifies the principles on and the manner in which compensation is to be determined and given".

The right of equality of the citizens is awarded in Article 25:

(1) All citizens are equal before the law and are entitled to equal protection of law.

(2) There shall be no discrimination on the basis of sex alone.

(3) Nothing in this Article shall prevent the State from making any special provision for the protection of women and children'.

Article 26 discourages the discrimination of the citizens:

(1) In respect of access to places of public entertainment or resort not intended for religious purposes only, there shall be no discrimination against any citizen on the grounds only of race, religion, caste, sex, residence or place of birth.

(2) Nothing in clause (1) shall prevent the State from making any special provision for women and children".

In addition to article 27 provides protection against discrimination in employment to the citizens of Pakistan:

(1) No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste, sex, residence or place of birth. Provided that, for a period not exceeding [forty] years from the commencing day, posts may be reserved for persons belonging to any class or area to secure their adequate representation in the service of Pakistan: Provided further that, in the interest of the said service, specified posts or services may be reserved for members of either sex if such posts or services entail the performance of duties and functions which cannot be adequately performed by members of the other sex.

(2) Nothing in clause (1) shall prevent any Provincial Government, or any local or other authority in a Province, from prescribing, in relation to any post or class of service under that Government or authority, conditions as to residence in the Province. For a period not exceeding three years, prior to appointment under that Government or authority".

Article 28 of the Constitution of Pakistan gives protection in respect of the preservation of language, script and culture to all the citizens of the country.

In short, we can conclude that the Constitution of Pakistan 1973 provides the fundamental rights to the citizens of Pakistan without the discrimination of sex, age, race, language or religion. However, it is the responsibility of the government to implement the provision of constitutional rights to the citizens.

8.3 OVERVIEW OF THE PRINCIPLES OF POLICY (ARTICLE 29-40)

The principles of policy have been described in the Constitution of Pakistan 1973. The relevant articles on the principles of policy are being copied in the following lines.

Article 29

(1) The Principles set out in this Chapter shall be known as the Principles of Policy, and it is the responsibility of each organ and authority of the State, and of each person performing functions on behalf of an organ or authority of the State, to act in accordance with those Principles in so far as they relate to the functions of the organ or authority.

(2) In so far as the observance of any particular Principle of Policy may be dependent upon resources being available for the purpose, the Principle shall be regarded as being subject to the availability of resources.

(3) In respect of each year, the President in relation to the affairs of the Federation, and the Governor of each Province in relation to the affairs of his Province, shall cause to be prepared and laid before the [each House of Majlis-e-Shoora (Parliament)] or, as the case may be, the Provincial Assembly, a report on the observance and implementation of the Principles of Policy, and provision shall be made in the rules of procedure of the National Assembly [and the Senate] or, as the case may be, the Provincial Assembly, for discussion on such report.

Article 30

Responsibility with respect to Principles of Policy:

(1) The responsibility of deciding whether any action of an organ or authority of the State, or of a person performing functions on behalf of an organ or authority of the State, is in accordance with the Principles of Policy is that of the organ or authority of the State, or of the person, concerned.

(2) The validity of an action or of a law shall not be called in question on the ground that it is not in accordance with the Principles of Policy, and no action shall lie against the State or any organ or authority of the State or any person on such ground.

Article 31

Islamic way of life:

(1) 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 and to provide facilities whereby they

may be enabled to understand the meaning of life according to the Holy Quran and Sunnah.

(2) The state shall endeavour, with respect to the Muslims of Pakistan:

(a) to make the teaching of the Holy Quran and Islamiat compulsory, to encourage and facilitate the learning of the Arabic language and to secure correct and exact printing and publishing of the Holy Quran;
(b) to promote unity and the observance of the Islamic moral standards; and
(c) to secure the proper 234rganization of zakat, [ushr,] auqaf and mosques.

Article 32

Promotion of local Government institutions:

The State shall encourage local Government institutions composed of elected representatives of the areas concerned and in such institutions special representation will be given to peasants, workers and women.

Article 33

Parochial and other similar prejudices to be discouraged:

The State shall discourage parochial, racial, tribal, sectarian and provincial prejudices among the citizens.

Article 34

Full participation of women in national life:

Steps shall be taken to ensure full participation of women in all spheres of national life.

Article 35

Protection of family, etc.:

The State shall protect the marriage, the family, the mother and the child.

Article 36

Protection of minorities:

The State shall safeguard the legitimate rights and interests of minorities, including their due representation in the Federal and Provincial services.

Article 37

Promotion of social justice and eradication of social evils:

The State shall:

(a) promote, with special care, the educational and economic interests of

backward classes or areas;

(b) remove illiteracy and provide free and compulsory secondary education within the minimum possible period;

(c) make technical and professional education generally available and higher education equally accessible to all on the basis of merit;

(d) ensure inexpensive and expeditious justice;

(e) make provision for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment;

(f) enable the people of different areas, through education, training, agricultural and industrial development and other methods, to participate fully in all forms of national activities, including employment in the service of Pakistan;

(g) prevent prostitution, gambling and taking of injurious drugs, printing, publication, circulation and display of obscene literature and advertisements;

(h) prevent the consumption of alcoholic liquor otherwise than for medicinal and, in the case of non-Muslims, religious purposes; and

(i) decentralise the Government administration so as to facilitate expeditious disposal of its business to meet the convenience and requirements of the public.

Article 38

Promotion of social and economic well-being of the people:

The State shall:

(a) secure the well-being of the people, irrespective of sex, caste, creed or race, by raising their standard of living, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of general interest and by ensuring equitable adjustment of rights between employers and employees, and landlords and tenants;

(b) provide for all citizens, within the available resources of the country, facilities for work and adequate livelihood with reasonable rest and leisure;

(c) provide for all persons employed in the service of Pakistan or otherwise, social security by compulsory social insurance or other means;

(d) provide basic necessities of life, such as food, and clothing. housing, education and medical relief, for all such citizens, irrespective of sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment;

(e) reduce disparity in the income and earnings of individuals, including persons in the various classes of the service of Pakistan;
(f) eliminate riba as early as possible.
(g) the shares of the Provinces in all federal services, including autonomous bodies and corporations established by, or under the control of, the Federal Government, shall be secured and any omission in the allocation of the shares of the Provinces in the past shall be rectified.

Article 39

Participation of people in the Armed Forces:

The State shall enable people from all parts of Pakistan to participate in the Armed Forces of Pakistan.

Article 40

Strengthening bonds with the Muslim world and promoting international peace:

The State shall endeavour to preserve and strengthen fraternal relations among Muslim countries based on Islamic unity, support the common interests of the peoples of Asia, Africa and Latin America, promote international peace and security, foster goodwill and friendly relations among all nations and encourage the settlement of international disputes by peaceful means.

8.4 RESPONSIBILITIES OF THE PAKISTANI CITIZENS (ARTICLES)

The Constitution of Pakistan 1973 has granted the fundamental rights to the citizens of Pakistan. Articles 8 to 28 provide equal rights to the citizens of the country without any discrimination. When we attain the rights in a country, we should also perform some duties. The state of Pakistan provides a number of rights to its citizens; therefore, it is our duty to perform our responsibilities. The Article 5 of the Constitution of Pakistan (1973) is one of its important articles, as it deals with one of our fundamental duties or responsibilities. The citizens of any state have to perform their duties in lieu of the rights but in the Constitution of Pakistan 1973, article 5 deals to the loyalty of the citizens towards state.

"Loyalty to the state demands that all citizens show an attitude of patriotism and commitment towards Pakistan. They should be ready to defend the nation against enemies and work towards its betterment. Loyalties also mean respecting national symbols such as flags and not engaging in activities that undermine its interests.

Obedience to the Constitution and Law means all citizens must abide by their country's laws, including its Constitution. They should refrain from engaging in

activities that violate its provisions or its spirit, thus upholding law and order. Obedience is vital in maintaining law and order within our society while guaranteeing everyone equal treatment under the law".

The text of Article 5 of the Constitution of Pakistan is as under:

Article 5:

Loyalty to the State and obedience to the Constitution and law

1. Loyalty to the State is the basic duty of every citizen.
2. Obedience to the Constitution and law is the [inviolable] obligation of every citizen wherever he may be and of every other person for the time being within Pakistan.

In light of the above text, Article 5 of the Constitution is crucial for many reasons, including its role in creating national unity and cohesion. "A sense of shared purpose and values emerges when citizens remain loyal to their state and adhere to laws and the Constitution. Something that helps overcome any divisions caused by religion, ethnicity, or any other factor.

Article 5 is intended to protect all citizens' fundamental rights and liberties. The Constitution guarantees every American several fundamental rights like life, freedom, and equality. These can only be secured if all citizens abide by the law and the Constitution.

Article 5 is essential in upholding law and order within any nation. Failure to abide by rules can create chaos and instability. The Article ensures that everyone is treated equally under the law. No one should ever feel above it.

The Article 5 of the Constitution of Pakistan is an essential piece that plays a vital role in its operation, and every citizen upholds it as part of their obligation to Pakistan's betterment".

Key points of Article 5

The Key points of Article 5 of the Constitution of Pakistan are as under:

- **Loyalty to the state:** All citizens must have a sense of patriotism and loyalty towards Pakistan. They should be willing to defend the country from its enemies and to work for its betterment.
- **Obedience to the Constitution and law:** All citizens must obey the country's laws, including the Constitution. They should not engage in any activities that are illegal or that violate the Constitution.

Article 5 of the Constitution of Pakistan is one of its foundation stone provisions, as it institutes all citizens' duty to stay loyal and faithful to their homeland and stand for both law and the Constitution.

Implications of Article 5

Article 5 has many important implications for Pakistani citizens. Respecting state institutions, government, courts, and military forces requires everyone.

As citizens, all must obey both the Constitution and any legislation passed by their respective governments. This duty applies equally to those residing outside America as well.

Article 5 of the Constitution of Pakistan 1973states that the citizens are equal responsible for maintaining and submitting to its Constitution and regulations, like the maintaining of its power and honesty against the enemies, promoting national unity regarding individual opportunities, and keeping others' rights and liberties.

8.5 VIOLATION OF HUMAN RIGHTS IN PAKISTAN

Pakistan is one of the developing countries where all the citizens cannot avail the fundamental rights. Violation of human rights is a global problem and one of the challenging issues in Pakistan and throughout world. Human rights issues is further the biggest headache of developing countries and multinational countries like Pakistan. This issue has not only been discussed in Pakistan but globally. Pakistan is also the part of international efforts regarding human rights issues. Pakistani government has also taken many tangible steps to stop all kind of human rights violation takes place in Pakistan on the ground of culture or religion. All the international human rights bodies are working with Pakistan to erode this menace. However there are many social, religious, legal and cultural issues prevent such steps taken by the government. Child abuse, gender discriminations, religious violence, kidnappings and men disappearance are core issues of Pakistan related to human rights.

The Constitution of Pakistan provides the rights to its all citizens without any discrimination. However, in Pakistan the facts are very different and we observe the extreme bitter situation regarding the violation of rights in the society. In this regard, we can know about the state of Human Rights in Pakistan through reading the annual reports published by the Human Rights Commission of Pakistan (HRCP).

The rights are granted in the constitution because the human rights are very important due to following reasons:

1. **Moral Vision:** "They create a vision of what life would look like if everybody's basic humanity was equally respected and protected. If our needs for survival and protection were met, then we could focus on developing our individual and collective potential through educational and cultural activities."
2. **Political Vision:** If we evaluate our own schools, communities or countries against the provision of political rights are the source of political development in the society.

3. **Protection:** "We need human rights for protection when our legal rights are violated by the state and to encourage justice and fairness within our societies."

Every individual is needed to "recognize his rights so he can oppose injustice. No matter what are your beliefs, how you look, where you come from you are the same as everyone else because you are a human being. We need to know our freedoms to be an integral part of any society. To fight when another person, institution or regime is trying to steal away what belongs to you.

However, it has been reported that human rights violations has not declined. There are many examples of human rights violations:

- Slavery, human smuggling and sexual exploitation.
- The "violations against freedom of speech, expression, assembly and association."
- The "torture, arbitrary arrest, detention or exile and restrictions against freedom of movement."
- Asylum seekers (refugees).
- Discrimination and unequal protection before the law.
- Violations to the right to privacy.
- Divided families.
- Restrictions on religious freedom.
- Inadequate social provisions.
- Child soldiers and child labour.

The violation of rights has become a routine in our country. The reports of Human Rights Commission of Pakistan (HRCP) show that the citizens have to face the discrimination on the basis of sex, race and religion in the country.

The national and international instruments of human rights protection are the way to address all kinds of violation of human rights without any discrimination. In this regard, Pakistan is also a big advocate of human rights in the world. The main issue is the implementation of these instruments which Pakistan really lagging behind. In this context, many government and non-government agencies are working on this.

The prospects of human rights in Pakistan can be expressed in the course of the following dynamics. Without these factors and aspects, it is too hard to protect the human rights in Pakistan. Violation of any one of them may lead towards human rights abuses and human rights violation. The biggest onus lies on the government to protect the human rights on any cost.

An independent commission for prevention of deep rooted corruption and gross violation of human rights was necessary for Pakistan to reinforce the country wide action against corruption and violation of human rights. As per requirements,

Pakistan has introduced a separate structure in the name of independent "National Accountability Bureau" and "Human Rights Commission of Pakistan (HRCP)" but the both are directly or indirectly functional under the control of government. The HRCP can only investigate human rights abuses and make recommendations to the government, which is not enough for strong movement against the violation of rights. However, the HRCP plays important role to highlight the violations and abuses.

There are many factors behind the human rights violations and mayhem in Pakistan. Undemocratic rule in Pakistan is one of the most important factors behind it which has badly halted the democratic culture in the country. The other factor is polarization of Pakistani society on multiple grounds such as caste, gender, religious and political, that has further facilitated the abuser to get strength and violate the fundamental human rights. In this stage of polarization people are dis-united and unable to form a peaceful society. Pakistani society is still in the way of intellectual and ethical progress and it still not reached to extent of high moral value and dignity. In this situation the civil society is promoting its work for the preserving of basic human rights of the marginalized class of the society. There are many barriers in front of civil society to face as the major part of the society is un-educated in Pakistan. Hence civil society itself is in a stage of infant and always been a victim of big hands of the society. Despite of many hurdles, oppression and killings, the civil society is constantly moving ahead to protect the human rights.

There are certain human rights civil society organizations which openly talks and address the minority rights abuses and honestly collect the data to gathering public opinion. Human Rights Commission of Pakistan (HRCP) is one of the enormous and famous among them, which is regularly pressed since it began working in 1986 for the protection of civil and political freedom and preservation of sacredness of judiciary and democracy. The HRCP is aimed to eliminate all types of violations against children, women and religious minorities and it also demanded the ending of death punishment and child labor. The HRCP is one of the most prominent organizations and working honesty for all kinds of abuses done against any deprived class of the society.

In the state of Pakistan, human right civil society organizations are continuously targeted, and many times victimized by the religious class of the society, which have always delayed in their work. These religious groups are actually pressure groups used to threaten such institutions which are working for the rights of minorities in Pakistan. They have big influence on society and state since long time. There is very slight decline in such violations from pressure groups mainly religious groups. These civil society organizations are legally registered and working for the rights of minorities in Pakistan, but their ratio of success and achievements is negligible as they have no political and economic support.

Self-Assessment Questions

1. Discuss the idea and concept of fundamental human rights in detail.
2. Highlight the global perspective of the rights of human beings in your own words.
3. Elaborate the fundamental rights provided to the citizens in the Constitution of Pakistan 1973.
4. Keeping in view the Articles 8-28 of the Constitution of Pakistan 1973, discuss the fundamental human rights of the people.
5. Discuss the Principles of Policy of the Constitution of Pakistan in detail.
6. Articles 29-40 of the Constitution of Pakistan 1973 provide the Principles of Policy. Discuss these principles.
7. Evaluate the responsibilities of the Pakistani citizens in the light of Article 5 of the Constitution of Pakistan 1973.
8. “The violation of human rights in Pakistan has become a fashion for decades”. Give your argument on the statement.
9. Elaborate the violation of human rights in Pakistan with special reference to non-Muslim citizens of the country.

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Unit - 09

CONSTITUTIONAL AMENDMENTS IN PAKISTAN

Written By:
Azhar Liaquat

Reviewed By:
Prof. Dr. Abdul Rauf

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INTRODUCTION

This chapter/Unit is regarding the amendments to the Constitution of Pakistan 1973. The unit has been divided into different phases to understand the amendments in an easy way. After the dismemberment of Pakistan in 1971, Zulfiqar Ali Bhutto took the office of President of Pakistan on 20 December 1971 and served as the fourth president of Pakistan till 14th August 1973. He took the office of the Prime Minister of Pakistan on 14th August 1973.

The Constitution of Pakistan 1973 was developed under the vision and supervision of Barrister Zulfiqar Ali Bhutto. The first phase of this unit deals with the Constitutional Amendments during the Bhutto Era.

The second part of this unit elaborates on the restructuring of powers from the 8th Amendment to the 17th Amendment in detail. The aim of launching these constitutional amendments was to struggle for powers. The constitutional amendments during the reign of General Zia ul Haq, Benazir Bhutto, Mian Muhammad Nawaz Sharif, and General Pervez Musharraf have been described in this section.

Another phase of "the 18th constitutional amendment and its political implications" has been elaborated by the author. The last phase of this unit describes the development of democracy and constitutional amendments from 2010 to 2023.

The period from 2010 to 2023 shows a number of important constitutional amendments. The aim of these amendments was to address critical supremacy matters, to extend the protection of fundamental human rights, and to promote institutional checks and balances.

OBJECTIVES

After studying this Unit, you will be able to know about:

1. the constitutional amendments during the Bhutto Era.
2. the restructuring of power: from the 8th Amendment to the 17th Amendment.
3. the 18th Constitutional Amendment and its Political Implications.
4. democracy and constitutional amendments (2010-2023).

9.1 ZULFIQAR ALI BHUTTO ERA (1971-1977).

During the era of Zulfiqar Ali Bhutto in Pakistan, from 1971 to 1977, several significant constitutional amendments were introduced that had a profound impact on the country's political landscape. Bhutto, who served as both the President and later the Prime Minister of Pakistan, aimed to consolidate power and implement his vision for a socialist-oriented democracy.

The loss of East Pakistan had caused great demoralization in the country. In the post-break-up situation, the main task before the nation was the integration of the remaining parts of the country. President Zulfiqar Ali Bhutto, leader of the largest political party in West Pakistan, was expected to heal the wounds of the nation by creating a congenial political atmosphere which he had promised in his very first speech to the nation. He had invited the opposition leaders to reach a broad-based workable understanding. The offer produced a positive response and the opposition joined him in drafting a unanimous constitution. However, once Bhutto consolidated his position, he became authoritative and adopted coercive policies in the provinces where his party had failed to secure a majority. He attempted to keep absolute powers in his hands in almost every capacity he served. He used these powers against his opponents whom he suspected as a barrier in the execution of his policies. This fostered a mutual mistrust between Bhutto and the opposition that led to an ugly environment of personal vendettas and party conflicts which proved an immense hurdle in the way of much-needed national integration.

The political institutions became weak and the whole period was infested with an intense political struggle and power politics. The constant confrontation and power politics caused not only internal political instability but also exposed the country’s political and administrative weaknesses to the foreign powers that either directly or indirectly encouraged separatist’ tendencies in the provinces of Baluchistan and NWFP (now Khyber Pakhtunkhwa) through local players in Pakistani politics. The political culture promoted during this era was the combination of personality cults, accusations of conspiracies, worse law and order situations, and political murders which caused long-lasted legal disputes that continued till the very end of the Bhutto regime. Therefore, this unit is an attempt to analyze the causes and events responsible for constitutional amendments.

SALIENT FEATURES OF CONSTITUTION OF Pakistan 1973:

A constitution is the body of fundamental principles or established precedents according to which a state or other organization is acknowledged to be governed. In simple words constitution is the set of rules and the laws are prepared under these rules. A constitution is a set of rules that regulates the

nature, function and limits of the government and other institutions. The People's Party Government attached more importance to framing a permanent constitution of Pakistan. The National Assembly had already appointed a committee for the purpose even before the promulgation of the interim constitution. Although the People's Party enjoyed two third majority in the National Assembly and could easily pass the constitution of its choice but it decided to associate all the other political parties with this sacred task of great national importance. The draft of the constitution was prepared with the consent of all the political parties.All the leaders of the parliamentary groups of the various political parties signed the draft of the constitution on 20th October 1972. It was collectively passed by the Assembly on 10th April 1973. The same was authenticated by the President of Pakistan Zulfikar Ali Bhutto on 12th April 1973. This Constitution, called the Constitution of the Islamic Republic of Pakistan 1973, was promulgated on 14th August 1973. The silent features of the constitution were:

Written constitution: It was a written document, very comprehensive in nature and consists of 280 articles and 7 schedules.

Objectives Resolution 1949: The most important and introductory objective was that the Islam shall be the state religion. Pakistan is an Islamic republic and the constitution emphasized that the prime minister and president should be Muslims. Objectives Resolution is included as the preamble of the constitution.

Islamic Constitution: The preparation of Islamic laws ensures the implementation of the Islamic system in the country.

Rigid constitution: It is considered a rigid constitution, as amendments cannot be made easily. It required two-third of the majority from both the houses to make the amendments.

Federal System: A Federal system was introduced within the federal and provincial governments. In an emergency, the federal government has the authority to pass any law and even suspend fundamental freedoms.

Federal Structure: Four provinces: according to the constitution the country is divided into four provinces Khyber Pakhtunkhwa (Former NWFP), Punjab, Sindh and Baluchistan. The fifth high court was founded later on in Islamabad on 14 August 2007 during General Pervez Musharraf's era. Islamabad is the Federal Capital Territory while tribal and northern areas are also included in Pakistan.

Parliamentary form of government: Parliamentary form of the government was introduced in the constitution. Pakistan is a federal republic with a parliamentary system of government. The Prime Minister, is chosen by the majority party to be head of the government.

Head of State: The President is considered the head of the state, and should be Muslim, not less than 45 years old, to be elected by the parliament and provincial assembly for a period of 5 years. He had the power to dissolve the assembly on the advice of the prime minister, can summon the session of parliaments (before the 18th constitutional amendment). The president has the power to appoint governors, attorney generals and chief election commissioners chief of the army, navy and air force.

Head of Government: The Prime Minister is the head of government, he chooses his own cabinet, and he is the leader of the house, elected by the National Assembly after 30 days of general elections.

Bicameral legislature: The Majlis-e-Shura (parliament) consists of 2 houses. The upper house is called the Senate of Pakistan and it has 104 members. The lower house is called National Assemble and it has 342 members. When the members of the Senate and National Assembly gather it is called the parliament. The National Assembly is the House of People and its tenure is five years. However, it can be dissolved at any time. The Senate is the house of provinces and its tenure is for six years. It cannot be dissolved and its half members retire after three years on their turn. Before the Government of General Pervez Musharraf, the one-third members got retired after two years but since the period of General Musharraf after three years the half members of parliament retired.

Method of election: The members of the national assembly and provincial assembly should be elected by the people through election. The members of the upper house called Senators are elected by the provincial government.

Structure of Judiciary: The constitution of 1973 emphasized on the independence of the judiciary of the country. The Supreme Court and high courts in the country have the power and responsibility to enforce the fundamental rights of the citizens. According to an act of parliament of 1997, the number of judges is 17 headed by a chief justice. There were sixteen judges including a Chief Justice at the end of 2024 while Justice Mr. Qazi Faez Isa was the honourable Chief Justice of Pakistan (in 2024). The Judges of the Supreme Court of Pakistan can hold their offices till the age of 65. There are five High Courts in Pakistan; each High Court is based in the capital city of one of the four provinces. Each Court consists of a chief justice and other judges. The judges of High Courts are appointed by the president of Pakistan and chief justices of Pakistan.

National Language: Urdu was declared as the national language of Pakistan in the constitution of 1973. However, English will remain as the official language.

Rule of Law: The Constitution determined the rule of law in Pakistan. According to this law, no one can be deprived of the basic fundamental right.

High Treason: According to the constitution the act of unconstitutional abrogation has been declared as the act of great treason. It has been written in the constitution that if 'any person who abrogates or attempts or conspires to abrogate, subverts or attempts or conspires to subvert the constitution by use of force or show of force or by other unconstitutional means shall be guilty of high treason'.

Referendum: The constitution allows the president to hold a referendum on any national issue. The referendum should be in the form of a question that is capable of being answered either by yes or no.

The Constitution of Pakistan was significantly amended during Bhutto's regime. In 1973, the country adopted its current Constitution, which was the result of a comprehensive drafting process led by a parliamentary committee. This constitution aimed to establish a federal parliamentary system with a strong executive, reflecting Bhutto's vision for a more centralized government structure. A summary of Bhutto's era constitutional amendments is given in the following table.

Sr. No	Amendments in the Constitution of 1973	Enactment Date
1st	Redefined the boundaries of Pakistan and removed references to East Pakistan.	4th May 1974
2nd	Defined a Muslim and declared the status of Ahmadis/Qadiyani as a minority and 'non-Muslim'	7thSeptember1974
3rd	Extended the period of preventive detention	18thFebruary1975
4th	Decreed additional seats for minorities, It also deprives courts of the power to grant bail to any person detained under any preventive detention	21stNovember1975
5th	Widened the scope of restriction on the High Courts	5th September 1976
6th	Provided that the Chief Justice of the Supreme Court will be retired at the age of 65 and High Court judges at age 62	22ndDecember 1976
7th	Enables the Prime Minister to obtain a vote of confidence from the people of Pakistan.	16th May 1977

9.2 THE RESTRUCTURING OF POWER: FROM THE 8TH AMENDMENT TO THE 17TH AMENDMENT

The rise of General Zia-ul-Haq to power in 1977 marked a turning point in Pakistan's history. The democratically elected government of Prime Minister Zulfikar Ali Bhutto had been toppled in a bloodless coup, ushering in a decade of military rule. This chapter delves into the complexities of the Zia era, exploring its political landscape, its impact on society, and its role in shaping the Pakistan of today.

From Unrest to Martial Law: The seeds of Zia's rise were sown in the political turmoil that followed the 1971 ‘Bangladesh Liberation War.’ Bhutto's populist policies and increasingly authoritarian tendencies alienated sections of the population. Zia, then Chief of Army Staff, capitalized on this discontent. In 1977, amidst allegations of electoral fraud by Bhutto's government, Zia staged a coup, imposing martial law and suspending the constitution.

Zia's Era: A Setback for Pakistan's Constitutional Development

General Zia-ul-Haq's military rule in Pakistan (1977-1988) marked a significant setback for the country's constitutional development. Here's a deeper exploration of the key consequences:

Erosion of Democratic Principles: Suspension of the Constitution: Upon seizing power, Zia suspended the 1973 Constitution, the painstakingly crafted document that aimed to establish a democratic framework after the tumultuous years following independence. This action essentially put the democratic project on hold, fostering a culture of political uncertainty and undermining public trust in democratic institutions.

Curtailment of Political Participation: Zia's regime banned political parties and stifled political dissent. This stifled the development of a vibrant political sphere where diverse voices could be heard and debated. Without the ability to freely participate in the political process, citizens were left with limited options to voice their grievances or hold the government accountable.

Weakening of Parliaments: The role of the national and provincial assemblies was significantly diminished under the Zia-ul-Haq era. Parliaments became rubber-stamp bodies, unable to effectively legislate or scrutinize the actions of the executive branch. This weakened the principle of representative government and hindered the development of a robust political system with checks and balances.

Shifting Power Balance:

Executive Dominance: Zia's rule concentrated power in the executive branch,

particularly the presidency. He not only held the position of President but also remained the Chief of Army Staff, further bolstering his authority. This concentration of power in one individual stood in stark contrast to the envisioned balance of power enshrined in the 1973 Constitution.

Military's Enduring Influence: Zia's military background and reliance on the armed forces during his rule further cemented the military's role in Pakistani politics. He appointed loyal military officers to key positions, both civilian and military, blurring the lines between civilian and military control. This not only weakened democratic institutions but also set a dangerous precedent for future military interventions in Pakistani politics.

Eighth Amendment and its Long Shadow:

Eighth Amendment (1985): In a bid to legitimize his rule and appease international pressure for a return to democracy, Zia introduced the Eighth Amendment to the constitution. This amendment, passed by a controlled parliament dominated by Zia loyalists, validated his actions since the coup, including the suspension of the constitution. It also granted the President sweeping powers to dissolve the National Assembly and accentuated the President's role in appointing the Prime Minister and key officials.

Sr. No	Amendments in the Constitution of 1973	Enactment Date
8th	Changed Pakistan's Government from a parliamentary system to a semi-presidential system by giving the president a number of additional powers	11th November 1985
9th	Bill to impose Shariah Law as the supreme law of the land. The bill was passed by the Senate but could never be passed by the National Assembly owing to the latter's dissolution	In 1985, not passed
10th	Fixed the interval period between sessions of the National Assembly to not exceed 130 days	29th March, 1987
11th	Revision of the reserved seats for women in the National and provincial assemblies. This bill was withdrawn in 1992	In 1989 not passed

12th	Created a speedy Trial Court for 3 years	1991
13th	Stripped the President of Pakistan of his reserve power to dissolve the National Assembly of Pakistan and thereby triggering new elections and dismissing the Prime Minister.	1997
14th	Allowed members of parliament to be dismissed if they defect.	3rd July 1997
15th	Bill to impose Shariah law as the supreme law of the land. It was never passed.	1998 not passed
16t	Increased the term appointed for the quota system as per the 1973 constitution from 20 to 40 years	1999
17t	Made changes dealing with the office of the president and reversal of the effects of the thirteenth Amendment	2003

Benazir Bhutto's Two Stints (1989-1990 and 1993-1996)

Benazir Bhutto's two stints as Prime Minister of Pakistan (1989-1990 and 1993-1996) were relatively short but left a lasting mark on the country's constitutional and political development. Her first term, in particular, marked a turning point, offering a glimpse of a democratic future while also highlighting the challenges that Pakistan would continue to face on the path to a stable and empowered civilian government.

A Fragile Democracy Emerges

Bhutto's victory in the 1988 elections, held after the death of General Zia-ul-Haq, symbolized the end of a long period of military rule. It instilled hope for a return to democratic norms and a flourishing of political discourse. However, the scars of Zia's authoritarianism remained fresh. The Eighth Amendment, introduced by Zia, continued to constrain democratic processes. It granted the President, often a retired military officer, significant powers, including the ability to dissolve Parliament. This created a power struggle between the executive and the presidency, hindering Bhutto's ability to enact her agenda.

Coalitional Challenges and Political Instability

Bhutto's first government was a coalition, reflecting the multi-party nature of Pakistan's political landscape. However, maintaining unity within a coalition proved a continuous challenge. Political rivalries, accusations of corruption, and ideological differences with establishment hampered effective governance. This ultimately led to her dismissal by the President in 1990, highlighting the fragility of democratic institutions and the vulnerability of civilian governments to military intervention.

A More Competitive Political Arena

Despite the challenges, Bhutto's term also ushered in a period of evolving political dynamics. Her return to power, along with the end of Zia's era, opened doors for new political actors. The Pakistan People's Party (PPP), led by Bhutto, faced increased competition from established parties like the Pakistan Muslim League (PML) factions and emerging regional parties. This diversification of the political landscape offered voters a wider range of choices but also contributed to the period's political instability, as parties jockeyed for power and struggled to form stable coalitions.

Limited Reforms and Missed Opportunities

Bhutto's government attempted to introduce some reforms aimed at strengthening democratic institutions. These efforts, however, were limited in scope due to the political constraints she faced. The broader task of dismantling Zia's legacy and fully restoring the balance of power envisaged in the 1973 Constitution remained largely unaddressed. The Eighth Amendment, with its tilt towards a powerful presidency, continued to cast a long shadow. Bhutto's first term, though a significant step towards democracy, highlighted the need for more comprehensive constitutional reforms to ensure a truly representative and accountable government.

A Legacy of Empowerment and a Stepping Stone

Despite the limitations and the brevity of her first term, Bhutto's premiership played a crucial role in laying the groundwork for a more robust democracy in Pakistan.

Normalization of Political Discourse: After a period of military dictatorship, Bhutto's return to power ushered in a period of open political debates and a return to civilian rule, albeit imperfect. This fostered a sense of normalcy and paved the way for a more vibrant political environment.

Empowering Women: As the first female Prime Minister of a Muslim-majority country, Bhutto's rise to power shattered a glass ceiling. It sent a powerful message of female empowerment, inspiring future generations of Pakistani women and demonstrating the potential for women's leadership on the national stage.

Benazir Bhutto's first term served as a stepping stone for Pakistan's democratic journey. The lessons learned from her challenges, along with her later return to power, would inform future efforts at strengthening civilian institutions and addressing the lingering influence of the military. Her legacy lies in her role as a pioneer in Pakistan's democratic development, paving the way for a more inclusive and representative political system, even if the full realization of that vision remains a work in progress.

Muhammad Nawaz Sharif's Era

During Prime Minister Muhammad Nawaz Sharif's era in Pakistan, spanning various periods from the early 1991-1993 to 1996-1999, the country witnessed significant constitutional and political developments, along with a range of consequences that shaped its trajectory. Let's delve into the consequences of these developments:

Constitutional Amendments: One of the significant consequences of Sharif's era was the enactment of constitutional amendments. Amendment no 12 to amendment no 16 in the constitution of Pakistan enacted during Nawaz's era. During his tenure, various amendments were introduced to the constitution, aimed at consolidating power, addressing governance issues, and instituting reforms. However, some of these amendments were contentious and led to political polarization, contributing to instability in the country's political landscape and rivalry with ever powerful establishment.

Political Polarization: Sharif's era was marked by heightened political polarization, with his government often facing opposition from rival political parties and institutions. This polarization hindered the smooth functioning of democratic processes, impeded policy implementation, and exacerbated social tensions. The confrontational nature of politics during this period hindered consensus-building efforts and undermined the stability of democratic institutions.

Military Interventions: Pakistan experienced military interventions during Sharif's tenure, including the coup d'état led by General Pervez Musharraf in 1999, which resulted in Sharif's ouster from power. These interventions disrupted democratic governance, weakened civilian institutions, and perpetuated a cycle of political instability. The consequences of military interventions during Sharif's era underscored the fragile nature of democracy in Pakistan and its susceptibility to authoritarian forces.

Economic Reforms and Challenges: Sharif's government implemented economic reforms aimed at liberalizing the economy, attracting foreign investment, and stimulating growth. However, these reforms also faced challenges, including fiscal

deficits, inflation, and currency devaluation. The consequences of economic policies during Sharif's era were mixed, with some sectors experiencing growth while others grappled with unemployment and poverty.

Judicial Activism: Sharif's tenure saw significant judicial activism, with the judiciary asserting its independence and playing a pivotal role in holding the government accountable. High-profile cases, including those involving corruption allegations against Sharif and his family members, showcased the judiciary's influence in shaping political discourse and governance. The consequences of judicial activism during this period included increased transparency, accountability, and public scrutiny of government actions.

Foreign Policy Challenges: Pakistan faced numerous foreign policy challenges during Sharif's era, including tensions with neighboring India, Afghanistan, and the United States. Sharif's government sought to navigate these challenges through diplomacy, dialogue, and regional cooperation. However, the consequences of these efforts were often overshadowed by security concerns, cross-border conflicts, and geopolitical rivalries, impacting Pakistan's international standing and regional stability.

In conclusion, Prime Minister Muhammad Nawaz Sharif's era in Pakistan witnessed a complex interplay of constitutional and political developments, with far-reaching consequences for governance, democracy, and socio-economic progress. While some of these consequences contributed to stability, development, and institutional strengthening, others exacerbated political polarization, economic challenges, and foreign policy tensions. The legacy of Sharif's era continues to shape Pakistan's political landscape, underscoring the ongoing struggle to consolidate democratic governance and address the country's multifaceted challenges.

Pervez Musharraf's Era

During General Pervez Musharraf's era in Pakistan, which lasted from 1999 to 2008, the country experienced significant constitutional and political developments, along with a range of consequences that left a lasting impact on its trajectory. Let's explore these consequences in detail:

Martial Law and Suspension of Constitution: One of the most notable consequences of Musharraf's era was the imposition of martial law and the suspension of the constitution in 1999. Musharraf, then Chief of Army Staff, seized power in a bloodless coup d'état, ousting Prime Minister Nawaz Sharif's government. The suspension of constitutional order undermined democratic governance, weakened civilian institutions, and led to a period of authoritarian rule.

Legal Framework Order (LFO) and Constitutional Amendments: Musharraf introduced the Legal Framework Order (LFO) in 2002, which amended the constitution to strengthen the powers of the presidency and military, while limiting the authority of the judiciary and parliament. 17th amendment was the hallmark of constitutional development in Musharraf's era. These amendments centralized power in the executive branch and allowed Musharraf to consolidate his authority. However, they also faced opposition from political parties, civil society, and the judiciary, contributing to political instability and social unrest.

Political Engineering and National Reconciliation Ordinance (NRO): Musharraf's regime engaged in political engineering to manipulate the political landscape and secure support for his government. The National Reconciliation Ordinance (NRO) issued in 2007 granted amnesty to politicians, including Nawaz Sharif and Benazir Bhutto and Asif Ali Zardari, allowing them to return to Pakistan without facing corruption charges. While intended to promote political stability and reconciliation, the NRO faced criticism for perpetuating impunity and undermining accountability.

Judicial Activism and Lawyers' Movement: Musharraf's era witnessed significant judicial activism and the emergence of the Lawyers' Movement in response to his attempts to undermine the judiciary's independence. The suspension of Chief Justice Iftikhar Muhammad Chaudhry in 2007 sparked widespread protests by lawyers, civil society, and opposition parties, culminating in Musharraf's resignation in 2008. The consequences of judicial activism and the Lawyers' Movement included the restoration of the judiciary's independence, the strengthening of democratic institutions, and the assertion of rule of law.

Foreign Policy and War on Terror: Musharraf's regime navigated complex foreign policy challenges, particularly in the aftermath of the 9/11 attacks and the subsequent War on Terror. Musharraf allied Pakistan with the United States in the fight against terrorism, leading to military operations in the tribal areas and cooperation in counterterrorism efforts. However, this alliance also strained relations with Afghanistan and fueled domestic unrest, contributing to political instability and security challenges.

Economic Policies and Development Initiatives: Musharraf's government implemented economic reforms and development initiatives aimed at liberalizing the economy, attracting foreign investment, and stimulating growth. These policies led to economic growth, infrastructure development, and improvements in key indicators such as GDP growth and poverty reduction. However, they also faced criticism for widening socio-economic disparities, neglecting social welfare programs, and exacerbating inequality.

In conclusion, General Pervez Musharraf's era in Pakistan was characterized by significant constitutional and political developments, with far-reaching consequences for governance, democracy, and socio-economic progress. While some of these consequences contributed to stability, economic growth, and cooperation with the international community, others undermined democratic principles, political stability, and social cohesion. The legacy of Musharraf's era continues to shape Pakistan's political landscape, underscoring the challenges and complexities of democratic governance in the country.

9.3 THE 18TH CONSTITUTIONAL AMENDMENT AND ITS POLITICAL IMPLICATIONS.

'Amendment is a word used for any change that is made in the Constitution. In Pakistan's Constitution of 1973, up to now, there have been approximately 26 amendments, and through the 25th amendment, the Federally Administered Tribal Areas (FATA) were merged into Khyber Pakhtunkhwa and in the 26th amendment, there was increasing the National Assembly seats to 12 and of the provincial assembly to 24 of the previous Federally Administered Tribal Areas.

In 2010 when the Pakistan People's Party was in power and Asif Ali Zardari was the President. They aimed to introduce certain amendments. Amendments come in various aspects. The most significant and crucial change was that initially, the federal government held most of the power, and all authority was concentrated in Islamabad, with the President having full powers. They distributed these powers to the provinces, and the Chief Ministers of the provinces gained more autonomy.

How did this work? In simple terms, whatever income the entire Pakistan generates, a portion is shared with all the provinces by the federal government. It is like a father dividing his income among his four sons equally.

The credit for the most crucial amendment, the 18th amendment, goes to the Pakistan People's Party, and the President of Pakistan at that time, Asif Ali Zardari, emphasizes that he limited the powers of the President while being in office. This statement is indeed true.

Here, one must understand that the President is more powerful or Prime Minister. According to Pakistan's Constitution of 1973, explains that Pakistan is a parliamentary system. In a parliamentary state, the Prime Minister holds more power. Since the Prime Minister also heads the Parliament, it makes the Parliament supreme and powerful, not the President, as the President is not the representative of Parliament it is just the symbol of federation.

Pakistan initially had a semi-presidential system, which was changed to a parliamentary democratic system after the 18th Amendment. In other words, the powers were shifted from the President to the Prime Minister.

How did the presidential system come into being? In the past, some Presidents introduced this system to establish a strong and authoritative Presidency. To weaken this Presidential power and empower the provinces, the 18th Amendment was introduced. This amendment brought about changes in powers. More powers were given to provinces.

The 18th Constitutional amendment also abolished the law that allowed a person to become Prime Minister or Chief Minister of a province only three times. After its elimination, anyone can become Prime Minister or Chief Minister more than three times.

Additionally, a crucial aspect was added that if Pakistan's Constitution were ever violated, it would be treated as high treason. Furthermore, Chief Election Commissioner, responsible for conducting elections throughout Pakistan, is now appointed through consultation with members of all political parties. Besides, educational expenses for girls, from ages 5 to 16, are the government's responsibility. These educational expenses will be covered for girls up to the age of 16. While the 18th amendment had several other aspects and some of the important aspects are being described in the following lines.

Some time ago, there was also talk of a presidential system. However, some political parties opposed this system. When it comes to a presidential system, major political parties in the country often voice their opposition. This opposition occurs because in a presidential system, the President holds power, and the provinces do not have the same level of authority; unlike in the parliamentary system, where provinces are more autonomous.

In the current political landscape, the Pakistan People's Party has the majority in Sindh, while the Pakistan Muslim League-Nawaz holds the majority in Punjab. Hence, the federal system does not suit them because even if they are not in power at the federal level, they can have a government in one of the provinces, and that province enjoys significant autonomy in a parliamentary system, they will have ministries and will be self-reliant, while it is not possible in a presidential system.

The 18th Amendment: A Reshaping of Pakistan's Political Landscape

The 18th Amendment to the Constitution of Pakistan, passed in 2010, stands as a transformative moment in the country's political history. It marked a significant decentralization of power.

Decreasing the Imposing Presidency: Prior to the 18th Amendment, the President exercised significant power, including the ability to dissolve Parliament unilaterally. This amendment clipped the wings of the presidency, effectively transforming Pakistan from a semi-presidential system to a full-fledged parliamentary democracy. The Prime Minister and Parliament emerged as the primary centers of executive authority, with the President assuming a more ceremonial role. This shift aimed to strengthen civilian control and prevent future military interventions in the political process.

Empowering the Provinces: An assurance of the 18th Amendment was the devolution of power from the federal government to the provinces. This addressed longstanding objections about excessive centralized control, particularly from provinces rich in natural resources like Baluchistan and Sindh. The amendment granted provincial assemblies greater legislative autonomy in key areas like education, health, agriculture, and law enforcement. This empowerment allowed provinces to tailor policies to better address the needs and aspirations of their citizens, fostering a sense of greater ownership and responsibility.

Strengthening Local Government: The amendment went beyond provincial empowerment by mandating the establishment of local government systems across all provinces. This aimed to bring decision-making closer to the people and improve service delivery at the grassroots level. Local governments could now play a more prominent role in areas like sanitation, infrastructure development, and primary education. A more healthy local government system has the potential to enhance citizen participation in the democratic process and ensure better responsiveness to local issues.

Boost for Democracy: The 18th Amendment is widely seen as a significant step forward for Pakistan's democracy. By weakening the executive presidency and empowering legislatures at both the federal and provincial levels, it promotes a more representative and accountable system of governance. This shift has the potential to cultivate a more vibrant political environment with greater space for diverse voices and political parties.

Federal-Provincial Balancing Act: The devolution of power has led to ongoing debates about the optimal balance between federal and provincial authority. While provinces have greater autonomy, concerns remain about ensuring national cohesion on issues like defense, foreign policy, and interstate water distribution. Finding the right balance between empowering provinces and maintaining a unified national identity remains a key challenge for Pakistan's political system.

Reshaping the Political Landscape: The amendment has had a significant impact on the dynamics of political parties in Pakistan. Prior to 2010, national

parties dominated the political scene. However, with greater control over provincial resources and policies, regional parties have gained a stronger foothold, particularly in provinces like Punjab and Sindh. This diversification of the political landscape could potentially lead to a more inclusive and representative system, but it introduces complexities in forming stable national coalitions.

Challenges and the Road Ahead:

Implementation Hurdles: Successfully implementing the 18th Amendment requires strong institutions and clear legal frameworks to define the division of power and address potential conflicts between federal and provincial jurisdictions. Uneven capacity across provinces can create disparities in how effectively they utilize their newfound autonomy. Addressing these implementation challenges is crucial to ensure the amendment fulfills its promise of a more equitable and efficient governance system.

Security Concerns and the Federal Role: National security remains a paramount concern for Pakistan. The amendment acknowledges this by allowing the federal government to intervene in provincial affairs in case of a threat to national security. However, striking a balance between national security concerns and provincial autonomy remains a challenge. Defining the parameters for federal intervention and ensuring it does not undermine the spirit of decentralization is an ongoing process.

A Work in Progress: The 18th Amendment is a dynamic document with ongoing interpretations and adjustments. The political landscape of Pakistan is constantly evolving, and how the amendment shapes future political developments remains to be seen. It is likely to continue sparking debates and influencing the ongoing struggle to consolidate a stable and democratic Pakistan.

The 18th Amendment stands as a testament to Pakistan's ongoing democratic journey. While challenges remain, it represents a significant milestone in decentralizing power, empowering provinces and local governments, and fostering a more representative political system. The success of this ambitious experiment will depend on Pakistan's ability to navigate the complexities of federalism, address implementation hurdles, and ensure that the devolution of power translates into tangible improvements in the lives of its citizens.

9.4 DEMOCRACY AND CONSTITUTIONAL AMENDMENTS (2010-2023)

The period from 2010 to 2023 in Pakistan was marked by significant developments in democracy and constitutional amendments, shaping the country's

political landscape and governance structures. During this time, Pakistan grappled with countless challenges, including political instability, security threats, economic downturns, and social unrest. Against this backdrop, the evolution of democracy and constitutional amendments played a crucial role in defining the nation's path forward.

Democracy, as a system of governance, is characterized by the participation of citizens in decision-making processes, the protection of individual rights and freedoms, and the accountability of elected representatives to the people. In Pakistan, the journey towards democratic consolidation has been troubled with obstacles, including military interventions, institutional weaknesses, and political polarization. Despite these challenges, the period from 2010 to 2023 witnessed significant steps towards strengthening democratic institutions and promoting the rule of law.

Constitutional amendments served as a cornerstone of Pakistan's democratic evolution during this period, reflecting the nation's ongoing efforts to adapt its legal framework to changing societal norms, political realities, and international standards. These amendments addressed a wide range of issues, including electoral reforms, decentralization of power, protection of minority rights, and the enhancement of judicial independence. However, the process of constitutional amendments in Pakistan has often been oppressed with controversy, as competing political interests, ideological differences, and power struggles have delayed consensus building and compromise.

In this comprehensive exploration, we explore the dynamics of democracy and constitutional amendments in Pakistan from 2010 to 2023. By examining key developments, challenges, and consequences, we seek to shed light on the complexities of democratic governance in a diverse and rapidly evolving society. From the adoption of landmark constitutional amendments to the conduct of competitive elections, Pakistan's journey towards democratic consolidation is a piece of evidence of the flexibility of its people and the long-term quest for political stability, social justice, and inclusive governance.

Throughout this analysis, we aim to provide a nuanced understanding of the interplay between democracy and constitutional amendments in Pakistan, highlighting both the progress made and the obstacles encountered along the way. By examining the successes and failures of the democratic process, we can assemble valuable insights into the opportunities and challenges that lie ahead for Pakistan as it continues on its path toward democratic governance and constitutional reform.

Sr. No	Amendments in the Constitution of 1973	Enactment Date
19th	Provided for the appointment of the Judges of the Supreme Court of Pakistan and made amendments to the number of members of the parliamentary committee for the appointment of Chief Electoral Officers at the Election Commission of Pakistan.	22 December 2010
20th	For Free and Fair Elections	14 February 2012
21st	In the aftermath of the Army Public School (APS) Peshawar Attack, Military Courts were established for speedy trials of terrorists and their sponsors.	7 January 2015
22nd	ECP powers deputed to the Chief Election Commissioner	8 June 2016
23rd	The 23rd Amendment was passed to re-establish the military courts for a further two years till 6 January 2019. In 2015, the National Assembly passed the 21st Amendment and created the military courts for a period of 2 years. The period of two years expired on 6 January 2017, hence this 23rd Amendment was passed to re-establish the military courts for a further two years till 6 January 2019. At the end of this period all, the amendments will be expired/removed automatically.	7 January 2017
24th	Reallocation of National Assembly seats among federating units and allowing election authorities to update boundaries of constituencies based on provisional results of the 2017 Census of Pakistan.	22 December 2017
25th	Merges Federally Administered Tribal Areas with Khyber Pakhtunkhwa.	31 May 2018
26th	Increasing the National Assembly seats to 12 and of	13 May 2019

the provincial assembly to 24 of the erstwhile Federally Administered Tribal Areas

The period from 2010 to 2023 in Pakistan witnessed significant developments in democracy and constitutional amendments, reflecting the country's ongoing quest for political stability, institutional flexibility, and democratic consolidation. Within a backdrop of political instability, security challenges, and economic uncertainties, Pakistan crossed a complex landscape of governance reforms, constitutional amendments, and electoral processes.

Democratic Flexibility and Electoral Processes:
Despite enduring challenges, Pakistan made notable strides in strengthening its democratic institutions and electoral processes during the period under review. Competitive elections were held in 2013 and 2018, marking peaceful transitions of power from one civilian government to another—a significant achievement in Pakistan's democratic history. These elections saw increased voter turnout, greater participation of political parties, and enhanced scrutiny by domestic and international observers, contributing to the legitimacy and credibility of the democratic process.

Constitutional Amendments and Reforms:
The period from 2010 to 2023 witnessed several significant constitutional amendments aimed at addressing pressing governance issues, enhancing the protection of fundamental rights, and promoting institutional checks and balances. Key amendments included reforms to electoral laws, decentralization measures, and efforts to strengthen the judiciary's independence. For example, the 18th Amendment to the Constitution, passed in 2010, devolved greater powers to the provinces, enhancing local autonomy and addressing longstanding grievances regarding resource allocation and political representation.

Moreover, the 21st Amendment, enacted in 2015, established military courts to try terrorism-related cases, reflecting Pakistan's commitment to fighting extremism and terrorism.

Challenges and Controversies:
Despite progress in democratic governance and constitutional reforms, Pakistan continued to face numerous challenges and controversies during the period under review. Political opposition, institutional conflicts, and allegations of electoral fraud persisted, undermining public trust in democratic institutions and processes. Moreover, the influence of non-state actors, including militant groups and vested interest groups, posed significant challenges to democratic governance and stability.

Furthermore, the process of constitutional amendments remained contentious, often subject to political maneuvering, ideological differences, and power struggles. Debates surrounding the scope of presidential powers, electoral reforms, and the role of the military in governance underscored the competing visions of democracy and governance in Pakistan, leading to protracted negotiations and compromises.

Consequences and Implications:
The dynamics of democracy and constitutional amendments in Pakistan from 2010 to 2023 had far-reaching consequences and implications for governance, the rule of law, and socio-political stability. While progress was made in strengthening democratic institutions and electoral processes, challenges persisted, hindering the consolidation of democracy and undermining public confidence in the political system.

Moreover, the consequences of constitutional amendments varied, with some reforms enhancing governance effectiveness and accountability, while others raised concerns about democratic erosion and civil liberties. The legacy of this period in Pakistan's democratic evolution underscores the complexities of balancing competing interests, values, and priorities in a diverse and dynamic society.

Conclusion: In conclusion, the period from 2010 to 2023 in Pakistan witnessed significant developments in democracy and constitutional amendments, reflecting the country's ongoing journey towards democratic consolidation and governance reforms. While progress was made in strengthening democratic institutions and electoral processes, challenges and controversies persisted, highlighting the complexities characteristic of democratic governance and constitutional reform. Moving forward, Pakistan faces the task of addressing these challenges, fostering inclusive political dialogue, and upholding democratic principles to ensure the sustainability of its democratic system.

Self-Assessment Questions:

1. Discuss the constitutional Amendments in the constitution of Pakistan 1973 during the reign of Zulfiqar Ali Bhutto.
2. Keeping in view the 8th Amendment to the 17th Amendment in the Constitution of Pakistan, highlight the restructuring of power in the country.
3. Describe the 18th Constitutional Amendment and its political implications in Pakistan.
4. Discuss the development of democracy in Pakistan and constitutional amendments from 2010 to 2023.

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