



Constitution of 1973

Background

Abrogation of the 1962 Constitution on March 25, 1969 led to second martial law in the country. Zulfikar Ali Bhutto became first civilian chief martial law administrator of Pakistan on 20th December, 1971. After assuming power the most important task for Zulfikar Ali Bhutto was to frame a new constitution. He was in favor of presidential form of government as this would give him more power but due to conflicting opinions within the Pakistan People's Party he had to settle for parliamentary system. National Assembly approved an Interim Constitution, which was enforced on April 21, 1972.

Constitution Making

Constitutional Committee comprised National Assembly (NA) members from all parties was set up in April 1972. Law Minister was the Chairman of this Committee. All parties agreed on the future political system in October 1972. The Committee reported on December 31, 1972. After long deliberations and compromises the final draft was approved unanimously on April 10, 1973. Zulfikar Ali Bhutto amassed a lot of power in the 1973 constitution and gave only nominal authority to the head of the state. The new constitution was approved on 14th August, 1973. This constitution remained enforced from 1973 to 1977 and suspended from 1977 to 1985. Later in 1985 this constitution was enforced again with a major amendment called 8th amendment, also termed as the mini-constitution. Later, Zia introduced 58-2-B and made president more powerful giving him power to dissolve the national assembly.

The Constitution functioned since then with two gaps. It remained operational during following periods:

- 1973-77: Operational
- 1977-1985: Suspended
- 1985-1999: Operational after changes
- 1999-2002 : Suspended

- 2002 onwards Operational after changes

Salient Features of 1973 Constitution

All the Islamic provisions of the previous constitutions were included in the Constitution of 1973. Some more Islamic provisions were also added, which are as under.

❖ Parliamentary System

Parliamentary form of government was introduced. It was a parliamentary constitution having powerful Prime Minister (PM) as head of government with a very weak President. President must act on the advice of PM. All of his orders were to be countersigned by PM. Prime Minister need to be elected by the NA. PM exercised all executive authority. PM was answerable to the National Assembly (NA).

❖ Role of President

Role of President was reduced to a mere symbolic figure. In 1985, powers of the President were increased through the 8th constitutional amendment. He had power to dissolve the NA. He had the powers of appointment of caretaker PM. He could give his consent to bills passed by the parliament or returns these.

According to the Constitution of 1973 the President must be at least 45 years of age. He must be Muslim and Qualified to become member of the NA. He is elected by the Parliament and the Provincial Assemblies for 5 years. President was to act on the advice of the Prime Minister.

❖ Bicameralism

Bicameralism was introduced in the country including Upper and Lower houses.

○ The Senate

Upper House called Senate. In this house equal representation was given to Provinces. Seats were reserved for the tribal areas, women and technocrats. Its original strength was 63, which was later raised to 87 and then 100, while the latest number is 104. Senate was to be elected through indirect election. It's a permanent House as half of its members are elected after three years.

- **National Assembly**

Lower House called National Assembly is elected on population basis. Its Original strength was 210 but now it is 342. NA is elected for five years. National Assembly member are elected through direct elections. Voting age for the franchise is lowered from 21 to 18.

National Assembly is more powerful than the Senate. Budget is presented before national assembly (NA). Cabinet was to be answerable to National Assembly.

Prime Minister was to be elected by the national assembly. Parliament under 1973 constitution is a powerful legislative body. It enjoys all legislative powers. It has control of the executive through questions, resolutions, parliamentary committees etc.

❖ **Federal System**

Federal form of government was introduced. Federation of Pakistan has four provinces and federally administered areas. Two lists are given in the constitution: Federal list and Concurrent list. Residuary powers belong to provinces.

❖ **Provincial Structure**

The President on the advice of the PM appointed provincial Governors. Elected Chief Minister exercises executive powers. Parliamentary system was introduced in the provinces.

Size of the provincial assembly varied depending on the size of population and number of constituencies. Governor rule to prevail in case of breakdown of provincial government. Provinces to depend on centre for finance. Residuary powers were to rest with the provinces. Centre was given emergency powers. Sufficient provincial autonomy was ensured in the constitution.

❖ **Principles of Policy**

Islamic provisions are provided in Principles of Policy. Foreign policy principles are also given under this heading.

❖ **Fundamental Rights**

Fundamental Rights are secured in the constitution and are implemented through the highest court. Supreme Court designated as the highest court in the country.

❖ **Islamic Provisions**

Title of the state is Islamic Republic of Pakistan. The objectives resolution was the preamble in the initial constitution but through article 2-A of 8th amendment it was inserted in the constitution in 1985. Islam was declared the State Religion of Pakistan. Ahmadis were declared non-Muslims. Definition of Muslim was included by an amendment. Principles of Policy also carried some Islamic clauses.

Council for Islamic Ideology is established under the constitution. i. e. Federal Shariat Court was added in 1981. Council of Islamic ideology was established.

❖ **National Language**

Urdu was declared National Language; however, English may be used for official purposes until arrangements would be made for its replacement by Urdu. Provincial Assembly may prescribe measures for teaching, promotion and use of a provincial language in addition to the national language. Provincial assemblies were allowed to prescribe measures for the promotion of provincial languages.

❖ **National Security Council**

National Security Council was added in 2002 in advisory capacity.

❖ **Judiciary**

An independent judiciary was given under the constitution. Supreme Court of Pakistan was the highest court. One High Court was established in each province and one in Azad Kashmir. A chain of lower courts was there under the high courts. One high court was established in each province including Azad Jammu and Kashmir.

Bhutto's Rule

The 1973 constitution gave Zulfikar Ali Bhutto immense power, and therefore under this constitution, he tried to implement his will on the people but faced tremendous opposition, especially from the Baloch tribes. Nawab Akbar Bugti was made the governor of Balochistan to curb resistance there posed by Nawab Khair Baksh Marri and Ataullah Mengal. Nawab Akbar Bugti toed Bhutto's line and resorted to forceful violent of crushing the opposition. The matters that could be solved through debate and discussion in the provincial assembly were now subjected to the battlefield. Ultimately, in order to tackle the restless situation in Balochistan a full-scale military operation was launched under General Tika Khan, who was notorious for his role in the 1971 war.

Pakistan People's Party enjoyed enormous support in Sindh and South Punjab, but its popularity was significantly low in the other two provinces. It was for this reason that Balochistan and Khyber Pakhtunkhwa (NWFP at that time) were subjected to Bhutto's wrath. Consequently, the Federal Security Force (FSF), comprising of retired military personnel, was established to manage the Prime Minister's affairs through brutal measures. Formation of FSF gave rise to political assassinations as a means of settling scores with dissenters and opposing factions – Lahore, Karachi, Hyderabad and NWFP had to face an alarmingly high level of assassinations. As the political landscape of the country deteriorated, Hayat Ahmed Khan Sherpao was killed when Bhutto was on a foreign trip. Upon his return, Zulfikar Ali Bhutto blamed Hayat Abdul Wali Khan for Sherpao's assassination and arrested him.

On the other hand, the retirement age of General Tika Khan was approaching, and Bhutto was posed with the challenge of looking for a loyal and submissive replacement. Bhutto's quest for appointing a docile army chief led him to select general Zia, bypassing many senior officials eligible for the post. This move compounded Bhutto's declining popularity among the army officers who were already dissatisfied and critical of his policies. At the same time, the political wing of Pakistan's premier spy agency, ISI, was created. The political wing of ISI was exclusively dedicated to helping Bhutto maneuver the upcoming elections in his favor.

Subsequently, elections were held on March 1977 and PNA (Pakistan National Alliance) was badly defeated. The elections were drastically rigged and managed by Bhutto's FSF to make

sure that Pakistan People's Party scores a fantastic victory. PNA launched countrywide agitation movement to protest against the conduct of unfair elections; there were street violence and large-scale arrests in all major cities of the country. The economy of Pakistan had also suffered because of this, and it was on a downward spiral to the extent that Bhutto ran out of money to pay his FSF. Thus, FSF collapsed which made Bhutto more open to the idea of negotiating with PNA leaders for the smooth functioning of his government. However, PNA members and Bhutto could not reach an agreement vis-à-vis process of holding fresh elections in the country. This made military intervention inevitable, and on 5th July 1977, Zulfikar Ali Bhutto's government was toppled by his handpicked chief of army staff, General Zia-ul-Haq. Bhutto was arrested, the constitution was once again suspended, and Pakistan slipped under its third military rule. General Zia-ul-Haq re-activated this constitution in 1985. Later on this constitution was once again suspended by Pervaiz Musharraf in his regime twice partially in 1999 and 2007.

Importance of Constitution of 1973

Constitution of 1973 has a great importance in the constitutional history of Pakistan because a lot of Islamic Clauses are added in the constitution as compared to the previous constitutions. This constitution cannot be dismissed (Cancelled or abrogated), any persons who will dissolve it will be hanged till death.