

## Basic Principles Committee Reports: An Uneven Journey towards Constitutionalism in Pakistan

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- p- ISSN: 2708-2458
- e- ISSN: 2708-2466
- L- ISSN: 2708-2458
- Vol. II, No. I (2017)
- Pages: 1 - 6

**Abstract:** *The First Constituent Assembly of Pakistan framed a number of committees in order to run the state affair; however, the Basic Principles Committee was one of the most important bodies that were assigned to prepare a draft for the future constitution of Pakistan. The main objective of the committee was to suggest the directive principle of the state policy. This 24-member committee submitted its first interim report on 28 September 1950 that suggested a federal configuration for Pakistan and the incorporation of the Objective Resolution in the upcoming constitution. However, when this report was presented, it criticized by the majority political parties of the Eastern Wing who were demanding more representation in the legislature and the declaration of Bengali as the national language of Pakistan. In order to satisfy the demands of the stakeholders, another report was presented by the then Prime Minister Khawaja Nazim-ud-Din in 1952 with some changes in it. The committee suggested equal representation for both wings, but this time the report was rejected by the Panjabi elites. Finally, Prime Minister Muhammad Ali Bogra presented a modified formula according to which contrary to the representation in Lower House the Upper House was weighted so as to secure parity between East and West wings of the country.*

**Key Words:** Constitutionalism, Pakistan, Basic Principles Committee

### Introduction

After a long struggle, Pakistan emerged as a Muslim majority State in August 1947. Under the leadership of the moderate Muslim League, this newly created state faced a number of difficulties including administrative, financial and political issues, however, the formation of an appropriate constitution had remained a burning issue for many years to come. It took almost nine years to be in practice. At the time of independence, both India and Pakistan adopted the Indian Act of 1935 as their interim constitutions. Pakistan, until the formation of its own constitution, accepted the Act on the contemporary basis with certain amendments. Yet the people of Pakistan were looking for a constitutional setup based on their aspirations.

The First Constituent Assembly of Pakistan was formed in July 1947. The assembly was assigned two major responsibilities, i.e., to legislate and to frame the constitution for Pakistan. However, it seems the constitution-making remained a secondary task for the assembly, during its lifetime of about seven years, members have discussed the constitutional issues not more than 116 days and their attendance were 37 to 56 out of 79 during that duration. For eighteen months after the death of Quaid-e-Azam nothing of importance was done except the passing of the Objective Resolution in 1949 which provided the basis for the future constitution. The resolution framed a number of committees in order to resolve the constitutional matters. However, the Basic Principle Committee which was assigned to prepare the appropriate proposal for the future constitution was formed on 12 March 1949. The committee further appointed three sub-committees in order to deal with more subjects including federal, provincial constitution matters, distribution of powers, franchise and the judiciary matters etc. Similarly, the special committee was appointed by the Basic Principle Committee, namely Board of Talimat-i-Islamia to suggest the various committee on the religious substance during their work. This five-member committee was headed by Maulana Syed Suleman Nudvi, the renounced religious scholar. In the light of recommendations and proposals by the committees, a journey to the future constitution was started that ultimately ended at the promulgation of the 1956 Constitution.

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## Formation of the Basic Principle Committee

The passing of the Objective Resolution was considered as the second most important event in the history of Pakistan after getting independence. However, one of the significant outcomes of the Resolution was the formation of the Basic Principle Committee. It consisted upon 24 members, but it may select a maximum of 10 members outside the legislature. There were seven members from Liaquat Ali Khan's cabinet; however, two of them were shortly become the provincial Governors, and one was ambassador.

Although the sub-committees dealing with federal and provincial constitutions and about the distribution of power submitted its reports on July 11 1950, the BPC considered it during its meeting held between August 5 and 11 1950. By the facing the criticism of delaying tactics' Prime Minister Liaquat Ali Khan, during his address in Karachi on August 14, 1950, stated, "Criticism has been voiced that the Constituent Assembly of Pakistan is delaying constitution-making, but delaying is not unexpected, because we are framing this constitution on the basis of new ideology reflecting Islamic values. He believed that many committees had been appointed by the Assembly to avoid complications, yet delay is better than some vital mistake."

## The First Interim Report of the Basic Principle Committee

Prime Minister Mr Liaquat Ali Khan presented the first interim report in assembly on 28 September 1950. The proposal of these committees described that the Objective Resolution would be the part of the constitution as the Directive Principles of State Policy. It further says that Pakistan would be a federation of provinces; where the parliament would comprise on Houses of Units and House of People. Similar to any other federation of the world, House of Units having equal representations from both wings, whereas House of People would be based on the population. About selection of the head of the state, the report suggested that a joint session of the parliament would elect the President for the period of five years.

On the pattern federal structure of developed nations, the report presented three lists for the distribution of powers; Federal list, Provincial List and the Concurrent List. The federal list would be dealing with 67 areas, Provincial with 35 areas, whereas the Concurrent list with 37 areas. Head of the state would appoint provincial heads for five years, but they will have to act on Chief Minister's advice. It was also suggested that each house would have to elect its legislature for a period of five years. However, contrary to the aspiration of the majority population from the eastern wing, Urdu was to be declared as the state language.

## Criticism on the Report

It is believed that the first report of BPC mainly failed to satisfy the majority population of Pakistan. It was criticized by the public from different angles; it was argued that it provided an incomplete constitutional structure. The opposition parties from East Pakistan issued a joint statement claiming, "apprehension has been expressed in some quarters that East Pakistan's majority would be reduced to a majority in the two Houses of the Central Legislature sitting together, in addition to that jurisdiction of provincial administration have to be condensed." United Front at this occasion demanded to declare Bengali as the official language. In West Pakistan, the press criticized the description for its over-centralization, while the religious forces criticized it on the grounds that report is less Islamic in nature. The situation resulted in political unrest. Liaquat Ali Khan, at this occasion, intervened that report was not final as the complete report having mass acceptance would be presented.

As per suggested procedure, the interim report was published in November 1950. In the next phase, public submissions from across the country were invited to be incorporated by January 31, 1951. On April 13, 1951, the committee after examining the recommendations presented its report to the Committee on 8 July 1952. However, meetings of the committee from August 1 to 9, 1952 considered the parity as its principle-feature. A further meeting was held in November in order to consider a lengthy memorandum from Sir Robert Drayton, the Assembly's Chief Draftsman, and discussed certain notes on the report submitted including the removal of the provision for reservation of legislative seats for women. Similarly, the articles covering the procedure to avoid repugnancy of legislation to Islamic Law were re-worded and substantially modified. So, the final report was prepared, and it was finally presented in the Assembly on December 22, 1952, by the new Prime Minister Khawaja Nazimuddin.

## Second Interim Report of the Basic Principle Committee

After considering Suggestions/recommendations across the country, the Basic Principle Committee prepared its report in the Assembly on December 22, 1952, under the premiership of Khawaja Nazimuddin.

Din. This report was signed by sixteen members of the committee out of twenty-nine including Maulvi Tamizuddin, Mr Chattopadhyaya, Mulana Mohammed Akram Khan, and Nurul Amin from East Pakistan, from Frontier province Abdur Rab Nishtar and Abdul Qaigum Khan, Mumtaz Dultana and Mrs Jahan Ara Shah Nawaz from Punjab, and from Sindh A. S. Pirzada signed this report. It consisted of 16 parts, 225 paragraphs and two schedules.

The Report suggested that the Objective Resolution was to be part of the preamble of the constitution, no law would be made against the injunctions of Shariah, federal form of the system would be adopted where the Lower House would enjoy the actual power while the Upper House might propose an amendment in statutes. However, if conflicts arise, a joint session would be called upon. The committee suggested that the House of Units would be comprised upon 120 members elected by means of the single transferable vote-60 from East Bengal, 27 from Punjab, 8 from Sindh, 6 from NWFP, 5 from the Tribal Areas, 4 from Bahawalpur, 2 each from Balochistan and Balochistan States, 2 from Khairpur state and 4 from the Capital of the Federation. However, the House of the People would consist upon 400 members from which 200 was to be elected directly by East Pakistani voters from sole member territorial electorates; similarly, 200 members were to be elected by voters from the units as well as some parts of the West Wing including the Centre of the state. The total membership in the case of Punjab would be 90, NWFP 25, Tribal Areas 17, Sindh 30, Khairpur 4, Balochistan 5 and Balochistan states 5, Bahawalpur 13, and Capital of state 11.

As far as the Head of the State is concerned, in a joint session of the Parliament, a Muslim citizen of Pakistan would be elected for the period of five years. The Council of Ministers headed by the Prime Minister would advise the President to exercise his authority, except his discretionary powers.<sup>30</sup> Similarly, the executives of the provincial units would be nominated by the President. In addition to this, unicameral provincial legislatures would be popularly elected for a period of five years.

The report further suggested the every 21 years old Pakistani citizen would be eligible to vote for federal as well as provincial legislature. Like most of the federal states, there would be three lists of subjects; namely the provincial, federal, and concurrent, whereas the residuary powers lie with the Centre. However, in Judicial sphere, the report suggested that the highest court of the country would be the Supreme Court of Pakistan. After that, there would be High Courts for the Punjab, NWFP, Sindh and East Pakistan. President would appoint the Chief Justice. The main task of the Judiciary at the highest level was to interpret the constitution. At the end on the demand of religious class, the report suggested the establishment of Board of Ulema to check the Islamic validity of the acts and to declare null and void the anti-Sharia laws.

The Committee, along with its report, added a list of recommendations called Directive Principles of State Policy. These principles highlighted the need for the Islamization of the society by suggesting a number of measures including the inclusion of Objective Resolution for enabling the Muslim citizens of the country to live their lives in the direction of Sharia. It further proposed that the existing laws should be reformulated in the light of the Quran and the Sunnah. Interestingly; the Committee suggested that only literate citizens could stand for elections. The state would provide basic facilities to the citizens having low-income syndrome or suffered from unemployment, bad health etc. The state would take measures to prevent the concentration of wealth or production sources in few hands. The committee also emphasized the principles regarding strengthening the bond of unity and friendly relationship of Pakistan with other the Muslim countries of World. However talking about the ability and capability of the executive organ of the state, the committee once again suggested that only a person possessing ability, character and piety and fit to conduct the state affairs suggested by the Objective Resolution should be elected as Head of the State.

## **Criticism on the Report**

Although the committee presented a better solution to the existing constitutional issues of Pakistan but again in the words of Khawaja Nazi mud Din the then Prime Minister "the document is representing the maximum agreement, it faced criticism towards the community." Majority of the people believed that there are a number of political, economic and constitutional issues still needing a proper resolution. It gave rise to an unending controversy between both wings of Pakistan on the issue of federalism, particularly on the quantum of representation in the parliament. In the Report, the position of the eastern wing in the central legislature was brought at par, with regard to the number of the seats, with the combined strength of all the units and area comprising West Pakistan. This was called the "parity Proposal". Against all the recognized principles of the federation, the report provided that in Lower House there would be 200 members from Eastern Wing while 200 from nine units of West Pakistan. Even in the House of Units, there would be 60 from the East wing and 60 from the entire Units of West wing. The arrangement was tantamount to partitioning the state between East and West Pakistan.

It is admitted that the principle of parity did not catch the attention of the people of the eastern wing. They believed that their numerical majority would be converted into a minority by giving them equal representation. In point of fact, the proposed principle of Parity of seats in the parliament between both wings of the country desecrated the federal standard. The matter had been solved in absolute ignore regarding social, linguistic, cultural and economic, divergences. It reflected an uneven distribution in the popular representation with weaker geographical contiguity of East and West Pakistan. Mr Hussain S. Suhrawardy also opposed the proposal of the bicameral legislature at the Centre in his opinion the party formula would arise provincialism and divide Pakistan into different units. Many political leaders including Ataur Rehman Khan, Sheikh Mujib ur Rehman and Sardar Akbar Bugti opposed the principle of parity in their statements. Moreover, in spite of demand from the Eastern wing of the country; the report did not touch the issue of the state language. Consequently, a wave of anger prevailed in entire East Pakistan. Interestingly Punjabi masses also joined them to criticize the report; however, their viewpoint was different from the eastern wing. The Punjabi elite believed that the sole unit of East Pakistan would enjoy a dominating position over the nine units of the Western wing. This report was depicted as the Bengali – Punjabi Crisis Report. The Islamic forces again criticized the report on the ground of its non-Islamic character. By criticizing the constitution, Inayatullah Mashriqui believed that the Islamic provisions of the Reports were actually un-Islamic.

Similarly, during an emergency meeting of the East Bengal Jinnah Awami League on December 22, 1952, charged that the BPPC report had violated the principle of democracy in allocating seats between the two Wings of Pakistan...the so-called parity which has ignored the question of the population has been nullified by the provision of the separate electorate. The advocate of provincial autonomy criticized the report for the residuary or undefined powers vested to centre. Similarly, the Board of Ulema was also criticized by the masses because the proposed board was proposed to be composed of unelected Ulema having the sole powers to reject the laws made by the elected legislatures. It was also claimed by a sect of society that the recommendations are undemocratic and un-Islamic and if these were accepted these will prove very harmful for Pakistan. The most unity of Pakistan.

### **Muhammad Ali Bogra Formula**

Constitutional deadlock, Political unrest, severe food shortage in the province of Punjab and anti-Ahmidiya riots in Pakistan weakened the Khawaja Nazimud Din government. Dismissal of Mumtaaz Dultana, Chief Minister of Punjab further deteriorated already tense situation. These circumstances provided a golden opportunity to the Governor-General Gulam Muhammed to dismiss the Prime Minister Khawaja Nazi mud Din on 17 April 1953 for his personal gains.<sup>47</sup> However, Governor-General tried to justify his position by saying, "...the ministry of Nazimud Din could not handle the situation properly due to which feel to replace this cabinet with a new body better fitted to work appropriately for constitution formulation." On the other hand, it is scholarly admitted that the Governor-General had taken an action that was clearly political and beyond the scope of the norm of a constitutional head of state.

Nonetheless, Gulam Muhammad appointed Muhammad Ali Bogra, the ambassador of Pakistan in the United States as a new Prime Minister of Pakistan in 1953. Bogra, the third Prime Minister of Pakistan, after taking over the charge affirmed formulation of the Constitution as one of his prime targets. His commitment resulted in a practical constitutional set up within six months of his premiership. His formula is popularly known as the Mohammad Ali Formula. The formula described that in the joint session of both Houses provided that the members voting for it must be included as a minimum of 30 per cent of the members from every zone. The eastern zone consisted of East Pakistan and the western zone included (1) the Punjab, (2) NWFP, Frontier States and tribal's, the Parliament would comprise of two Houses; the lower house would be elected on a population basis, and the upper house was weighted as to secure parity between both wings of the country. The Upper House would comprise 52 members while the Lower House would consist of 314 providing parity in a joint session of the Parliament, with 183 seats each to eastern wing and to all units of the Western part collective together. While the zone where the President was to be elected would be different from the zone of the Prime Minister. A vote of no-confidence against the President could be passed by a majority of the areas, (3) Sindh and Khairpur, (4) Balochistan and Balochistan States Union, Karachi and Bahawalpur. Mr Mohammad Ali described his Formula "a special treatment for a special situation" which will give not only due importance to East Pakistan but also acceptable to all units of the country.<sup>54</sup> In point of fact, the proposed distribution of seats ensured the parity between East and West Pakistan to avoid complications.

The Upper House was to be elected on the principles of indirect elections, while the Lower House was proposed to have 300 seats elected on a population basis. 14 seats were proposed to be temporarily reserved for women. Both the Houses were proposed to have equal powers, and the

minister was responding to the legislature. In case of contradiction between the two houses, a joint session was proposed to decide, and in case of failure, the legislature would be dissolved by the President. Muslim candidate was to be elected by the joint sitting of the central legislature. He was proposed to be nominated by the president from the House of people and then to seek a vote of confidence within 2 months from Lower House. As discussed earlier, if the President was from Eastern wing, the Premier was proposed to be taken from West Pakistan. In addition, the Supreme Court of Pakistan was proposed to be at the top of the judicial structure. By resolving the language controversy, it was decided that both Urdu and Bengali would be considered as the official languages of Pakistan.

It is admitted that Bogra Formula was an upgraded version of BPC Reports. It gave due magnitude to the Western part of the country comprising larger territory and the Eastern wing having the majority population. Yet the standard of parity was visible in the case of the joint session of the Parliament. This symphony of the formula shows that if conflicts arise, there would have been no position of distrust. In order to create a political harmony in Pakistan, it had been decided that a motion would not be passed until it had the support of at least 30 percent of members of the legislature from either zone.

Different circles of the society reacted in their ways to the Prime Minister's Formula. However, unlike two previous reports of the BPC, it was mainly appreciated by the majority population from both wings of the country. There were great zeal and enthusiasm amongst the people. They believed that the plan would bridge up the gulf between East and West Pakistan up to a greater extent. After a long and heated debate in the Constituent Assembly, a committee was set to formulate the constitution in the light of formula. However, before finalization of the constitution, the Assembly was dissolved by the Governor-General Ghulam Muhammad which caused an irretrievable loss to the democratic process in Pakistan.

## **Conclusion**

Constitution is a set of fundamental principles for running of any administrative machinery of a state. Within a state, a constitution defines the doctrine upon which the country is based, the procedure in which the laws are made and by whom. Constitutional history of Pakistan started with the adoption of the Government of India Act 1935 as an Interim Constitution of the country with some amendments. Yet the country needed a permanent constitution which should be based on the wishes and aspiration of the people and which may satisfy the different communities of the country according to their religion, custom and traditions.

In order to achieve the said objective, First Constituent Assembly of Pakistan took a number of steps towards making of the constitution, however, passing of the Objective Resolution is taken as considered as the landmark in the constitutional history of Pakistan. The Resolution formed various committees for the further procedure in this regard. Most important among these was the Basic Principle Committee. In its first report, the committee suggested federal structure for Pakistan, but the majority of the political stakeholders from East Pakistan rejected the formula by demanding more representation in the state machinery. On public demand, another report was presented for consideration. It although presented an idea of equal representation for both wings, however, the Punjabi elite; by considering it a tangible threat to their political hegemony, did not accept it.

This wave of criticism delayed the constitution-making process in Pakistan. Finally, Bogra Formula proposed a concept of parity between East and West Pakistan that was accepted by majority segments of the society. However, dismissal of the Constituent Assembly by the autocratic rule of Ghulam Muhammad caused an irretrievable loss to the democratic process in Pakistan. Although, both first and second reports were criticized by different stakeholders including Ulemas on the question of nature of the constitution, politicians from East wing on the question of unjustified representation in state machinery and stakeholders from Punjab on the question of parity etc. enhanced Punjabi-Bangle Crises. In point of fact, criticism on the first and second report of the Basic Principle Committee by the aggrieved parties reflected their ambitions that were to be incorporated in the constitution of Pakistan.

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