

The Religio-Political Elite (Ulema) and the Process of the Constitution of Pakistan

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Abstract:

The paper aims to discuss the critical role of the Religio-Political elite (the Ulema) during the process of the First Constitution of the Islamic Republic of Pakistan 1956. The Ulema were practically involved in launching the socio-political movement against the government to respect the public opinion and make state laws and the Constitution in the light of the Quran and Sunnah. The Ulema used the skills of applied political science for their success and finally they were able to achieve their goals.

Keywords: The Religio-Political elite, Pakistan, Constitution of Pakistan, the Ulema, the Constitutional Process of Pakistan, the Qadiani Movement

Introduction:

On August 14, 1947 Pakistan came into being, due efforts of the Muslims of the Sub-Continent. Millions of people migrated from India to Pakistan due to the supremacy of Region and the hope for justice and equality. The newly migrated people faced many serious challenges because the newly born Pakistan had no facilities, not even a paperclip, in any government offices. It is obvious that any country which comes into being initially faces thousands of foreseen and unseen problems. If we compare Pakistan and India, we see that Pakistan was an underdeveloped country due to lack of resources and foreign support. Indian Leader, Molana Abul Kalam Azad, predicted that Pakistan could not even survive for thirty years. However, just after independence, the great leader of the nation of Pakistan, Mr. Muhammad Ali Jinnah, commonly known as Quaid-e-Azam, took over the charge as Governor General of Pakistan, while Mr. Liaquat Ali Khan was appointed as Prime Minister of Pakistan. Mr. Muhammad Ali Jinnah knew the feelings and emotions of the nation. The sacrifices the people made, for the sake of Two Nations Theory, and migration from their homeland to the newly established country was due to the Islamic Political System. The people of Pakistan wanted an ideological state where the Cosmic Law (Sharia Law) would be the most superior. Observing the emotions of the nation, Quaid-e-Azam spoke to the nation:

“Creation of Pakistan is now a reality for which we were struggling for last ten years. It was not enough to establish a state, but it was just a source of achievement. We thought we wanted such a state where we could progress according to our culture, characteristics, and conventions, where the basic principles of Islamic Justice, law of equality would flourish easily.”¹

He evaluated the demands of the nation. He also evaluated the emerging political culture of Pakistan. Unfortunately, Quid-e- Azam Muhammad Ali Jinnah died on September 1947. After Quid-e-Azam, Khuwaja Nazim-ud-Din became the Governor General of Pakistan. Pakistan was facing serious challenges of settlement especially with the stability in the government. It was the responsibility of the Governor General to establish Parliamentary Government and to make a democratic constitution in the light of the public demand. The public opinion was in support of the Islamic state and its constitution carrying Islamic Political characteristics. It should be pointed out here that although the Pakistan was created on the name of Islam, a big crisis was created by the politicians regarding its political system and constitution creation. Another major problem that was faced by this country was the implementation of The Act of 1935. The political lobbies were very active to impose their own wishful type of government. The members of the Constituent Assembly can be seen in three major categories:²

- a) Traditional group
- b) Secular
- c) Liberal group

The traditional, or conservative, group was the class of Ulema or Religio-Political Leaders. They had no majority in the Parliament, but despite the fact that there were only a few of them, they were very senior members and

¹ Rais Ahmed Jaffri, *Khutbat-e-Quaid-e-Azam*, Maqbool Academy, Lahore, n.d. p.571

² Prof. Dr.Manzooruddin Ahmed, *Pakistan: The Emerging Islamic State*, The Allies Book Corporation, Karachi, Pakistan, 1966, p.89

experts of politics. They were the people who were directly involved in the Pakistan Movement. Ulema (Religio-Political Leaders) like, Molana Shabbir Ahmed Usmani and Molana Akram Khan, were representing the class of Ulema from West Pakistan, while Molana Abdullah Al Baqi was from East Pakistan. Due to their continuous struggle and political demands, the government had to agree to their demands.

The Objectives Resolution:¹

- “Whereas sovereignty over the entire universe belongs to Allah Almighty alone and the authority which He has delegated to the State of Pakistan, through its people for being exercised within the limits prescribed by Him is a sacred trust;
- This Constituent Assembly representing the people of Pakistan resolves to frame a Constitution for the sovereign independent State of Pakistan;
- Wherein the State shall exercise its powers and authority through the chosen representatives of the people;
- Wherein the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam shall be fully observed;
- Wherein the Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam as set out in the Holy Quran and the Sunnah;
- Wherein adequate provision shall be made for the minorities to freely profess and practice their religions and develop their cultures;
- Wherein the territories now included in or in accession with Pakistan and such other territories as may hereafter be included in or accede to Pakistan shall form a Federation wherein the units will be autonomous with such boundaries and limitations on their powers and authority as may be prescribed;
- Wherein shall be guaranteed 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 law and public morality;
- Wherein adequate provisions shall be made to safeguard the legitimate interests of minorities and backward and depressed classes;
- Wherein the independence of the Judiciary shall be fully secured;
- Wherein the integrity of the territories of the Federation, its independence and all its rights including its sovereign rights on land, sea and air shall be safeguarded;
- So that 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 happiness of humanity.”

In this resolution it was admitted that the absolute authority belongs to Allah; He is sovereign. It was admitted that the constitution of Pakistan will be created in the light of Quran and Sunnah. The lives of the citizens of Pakistan will be trained as per Sharia law. Approval of the resolution by the Constituent Assembly made the people of Pakistan happy and they believed that Pakistan would reach its actual destination through the Cosmic Law (Sharia Law). After the Objective Resolution, the government set up the Basic Principles Committee, as well as, the Islamic Education Board. The purpose of such a Board was to help the Basic Principles Committee to make the constitution of Pakistan an Islamic one. The first Chairman of the Board was Molana Shabbir Ahmed Usmani, while Molana Zafar Ahmed Ansari was the Secretary of the Board. The Committee consisted of the following members

1. Mufti Muhammad Shafi
2. Allama Syed Suleman Nadvi
3. Dr. Hameedullah²

The majority of the Board was from the category of the Religio-Political Elite. Dr. Hameedullah was the only one who had a modern education and conventional education; however he still followed the Ulema, he did not oppose them. The recommendations were kept in secrecy even from the Members of the Constituent Assembly.

Religio-Political Elite and the Report of Basic Principles Committee:

The report presented by the Basic Principles Committee was published on September 7, 1950. The government claimed that after this report, the purpose of the creation Pakistan was achieved but the nation of Pakistan totally

¹ The Constitution of Pakistan, 1973. Annex. Article 2(A) “*The Objectives Resolution*”

² Prof. Dr. Manzooruddin Ahmed, *Pakistan: The Emerging Islamic State*, The Allies Book Corporation, Karachi, Pakistan, 1966, pp.89-90

got upset and disappointed due its nature of approach, which was very secular. In the recommendation there was nothing Islamic except that Islamic Education would be mandatory for every Muslim. It must be noticed that none of the recommendations given by the Islamic Education Board were incorporated in the recommendations of the Basic Principles Committee's report. Another negative thing was that this committee did not suggest any kind of freedom for the citizens of Pakistan. It was recommended that the President of Pakistan may announce emergency without prior permission by the Assembly. During emergency he may cease the rights of movement, speech, writing, meetings, etc. The President, provincial Governors, Ministers, and the Members of the Constituent Assembly cannot be questioned in the judiciary.¹

This kind of Constitutional suggestions were the result of the mindset of Liberal group in the Constituent Assembly and the Government. The Liberal Politicians wanted to make a moderate Constitution of Pakistan in accordance with the requirement of the world. The Ulema and the majority of the people of Pakistan were not satisfied with these suggestions. The basic draft presented by the Committee disappointed the Religio-Political elite and citizens. It mentioned that at any time, the government could arrest anyone to ensure peacekeeping. The senior civil servants cannot be taken to the Court without prior permission by the President of Pakistan. Illegal detention cannot be challenged in the high court of Pakistan without the will or permission of the government.² The Religio-Political elite became upset after seeing these kinds of recommendations. They had a direct approach to the people, which is why they continued with their conventional approach to bring reforms in the society, and let the government know what the basics demands are of the people. Syed Abul Aala Maududi, the leader of Jamat-e-Islami, started a movement with the demand of creating an Islamic Constitution. He had great support from the Ulema of different schools of thought. He started to hold meetings in various parts of Pakistan where he demanded that the Government declare Pakistan as an Islamic state and run its affairs according to the Islamic Principles. He said,

“The sources of Islamic Constitution are written. Quran is a written form, Sunnah is a written form, and the actions of the four Caliphs are in black and white. Mujtahideen and their opinions can be found in the books, nothing is hidden or rare.”³

Molana Maududi believed that the Islamic terminologies can be converted into the contemporary terminologies as per requirement of the society. He explained the term of “Islamic Sovereignty” as an example:

“The term of ‘Sovereignty’ in the discipline of Political Science is used for absolute authority, which means that any persons or institution that have authority would be considered as legal order, and such authority has supremacy of power for giving orders on behalf of the state to the people. The people are compelled or bound to obey unconditionally, whether they want to or not. No one can restrict its authority of orders except by his own will. Nothing would stop the government's absolute authority. The law comes through the will of the ruler and is binding upon the citizens to follow.”⁴

According to Molana Maududi, such absolute power cannot be given to a person or creation, because such authority remains with Allah, the Creator of the entire universe. The Holy Prophet (PBUH) had the delegated power by the Absolute Power (Allah) to be obeyed. Comparing the Western sovereignty with the Islamic sovereignty, he pointed out the differences between Islamic and Western democracy and how the government is formed in the light of these two schools of thought, as well as, what the powers of such governments are:

“The western people interpret the term of democracy by considering the majority of the people as commanding organs, while we, the Muslims, take the meaning of democracy in a different way. Democracy means vicegerency for state affairs. The majority and their opinion constitute the government and they can bring about change within the government through their opinion. But the basic difference can be seen in both schools of thought; in their ideology, the democratic state becomes a dictator, or absolute power, while in the Islamic Political System, democratic vicegerency is bound with the Divine Law (Sharia Law).”⁵

The Religio-Political elite created a kind of pressure inside the Constituent Assembly and in the community. They demanded that Pakistan be declared as an Islamic Democratic State. Some of the political scientists of that time suggested that there must be a comparative study in Pakistan of the Islamic government and a democratic government should be formed. Molana Ehteshaam-ul-Haqq Thanvi invited 31 Religio-Political elite from East and West Pakistan. They wanted to make a comprehensive plan of action and presented 22 points to the government to incorporate within the constitution and act as per the suggestions of the Ulema. Some of the major points included:

¹ Dr. Hafiz-ur-Rahman Siddiqi, *Qarar Dad-e-Maqasid Se Islami Qanoon Tak*, Tahir and Sons Karachi, 1981, p. 33

² Dr. Hafiz-ur-Rahman Siddiqi, *Qarar Dad-e-Maqasid Se Islami Qanoon Tak*, Tahir and Sons Karachi, 1981, p. 34

³ Syed Abul Aala Maududi, *Islami Dastoor Ki Tadween*, Islamic Publications Ltd, Lahore, 1953, p.10

⁴ Ibid, p.17

⁵ Syed Abul Aala Maududi, *Islami Dastoor Ki Tadween*, Islamic Publications Ltd, Lahore, 1953, p.25

1. Actual Authority belongs to Allah.
2. The law of the state should be based on the Quran and Sunnah.
3. No law would be made against the Quran and Sunnah.
4. The Islamic State would create international brotherhood among other Islamic States.
5. The Islamic State would provide basic necessities to the citizens and would not take into consideration their School of Thought, color, creed, economic status, etc.
6. All nationals of Pakistan would have all the rights which have been delegated by the Sharia Law.
7. The non-Muslim citizens of Pakistan would have complete freedom within the circle of law to perform their religious and cultural duties, as well as, have complete freedom of attaining their religious education.
8. The Head of the State must be a Muslim Man, and would be the actual administrator of the country.
9. The Head of the State would not have the right to suspend the whole constitution or even part of the constitution and run the government without Shoora (Consultative Assembly).
10. The Head of the State would not be above the law. He will be equal to every other citizen of Pakistan.¹

All these points reflect a common consensus of the Ulema of Pakistan which showed their concern regarding the bad governance and misuse of power by the then government. In such conditions, we also note that the Ulema from different schools of thought were united for the supremacy of the Sharia Law. They were fully justified to ask the government for the Islamic System and Constitution. The majority of the people of Pakistan were also demanding the same. That is why the government was under much pressure and seriously thinking how they would get rid of such a political situation.²

The second convention of the Ulema in 1952 was held due to non-interest of the government regarding the 22 points presented in 1951. They seriously thought that the government was ignoring their demands. In this conference, more than one million people participated, and they clearly declared that they would never accept any such constitution which did not carry the basic principles of Islam. They further demanded that the government demand five religious scholars in the Supreme Court, who would, from time to time, review the laws and ruling system and determine whether they were according to the Quran and Sunnah or not. Additionally, they demanded that the subject of Islamic Studies would be compulsory for Muslim students in all schools. Just after the end of the conference, the Prime Minister, Khuwaja Nazimuddin, invited the Ulema to discuss and negotiate their demands.

Finally, the Ulema met the Prime Minister who assured them that their demands would be considered. The Basic Principles Committee presented its amended report in which they took care to include the suggestions of the Ulema. The reports were published on December 22, 1952. The majority of the people and the Ulema were satisfied to see the reflection of the 22 points, they laid out, within the Basic Principles Committee report. In this report, it was accepted that the law of the country would be according to the Quran and Sunnah. A Board of Ulema would be constituted to evaluate the all proposed laws and determine whether their nature was Islamic or not. The Head of the State would be Muslim. The members of the Constituent Assembly would take an oath by the President of Pakistan that they will follow, in their public and private life, the Quran and Sunnah. The Constituent Assembly was divided, just like the Prime Minister, Khuwaja Nazimuddin, who was a religious minded person, and the Governor General, Ghulam Muhammad, who was secular minded. Meanwhile, two big political issues arose:

1. A Language problem: in East Pakistan, there was a problem of language that arose between Urdu and Bengali.
2. The Qadiani problem: in West Pakistan a Movement started against the Qadiani. The Ulema demanded to declare Qadiani's non-Muslims as they do not recognize the Prophet Muhammad (PBUH) as the final prophet.³

Eminent Ulema including, Molana Abdul Hamid Badayuni, Molana Abdul Sattar Niazi, Khwaja Qamruddin Siyalvi, Molana Muhammad Baqar Zia Noori, Molana Arifulla Shah Qadri, Allama Abul Hasnat Syed Mohammad Ahmed Qadri, Molana Jamil Ahmed Naimi, Allama Ahmed Saeed Kazmi, Mufti Mohammad Shafi, Molana Anwar Shah Kashmiri, Mufti Mohammad Shafi, and others, started a movement against the Qadiani. These Ulema were united and they declared that the Qadianis must be declared non-Muslims. The Ulema demanded that Chowdhury Zafarullah be removed from his office. All Qadianis must be removed from top

¹ Dr. Hafiz-ur-Rahman Siddiqi, *Qarar Dad-e-Maqasid Se Islami Qanoon Tak*, Tahir and Sons Karachi, 1981, pp.41-42

² Anwar Syed, *Pakistan: Islam, Politics, and National Solidarity*, Vanguard Books Ltd., Lahore, 1984, pp.78-79

³ Prof. Dr. Manzooruddin Ahmed, *Pakistan: The Emerging Islamic State*, The Allies Book Corporation, Karachi, Pakistan, 1966, p.96

positions of the government. A board was constructed by the Ulema to look into the affairs regarding the Qadiani issue. On July 12, 1952, the board held its meeting consisting of the following Religio-Political parties:

1. Jamiat Ulema-e-Islam
2. Jamiat Ulema-e-Pakistan
3. Jamat-e-Islami
4. Tanzeem-e-Ahle Sunnat Wal Jamaat
5. Idara Huqooq-e-Shia
6. Jamiat-Ahley Hadiths
7. Majlis Tahafuz Khatm-e-Nabuwat
8. Majlis Ehrarey Islam

The Qadiani movement became very serious because the Ulema did not deviate from their basic demand to declare them non-Muslims. The political situation became worse, and when the Prime Minister could not declare Qadianis as non-Muslim, the Ulema started agitation until most of them were arrested. The people of Pakistan brought violence to the streets in support of the Ulema. Considering the critical situation, the Prime Minister was removed by Ghulam Mohammad and Martial Law was imposed in Punjab. Mohammad Ali Bogra was made the Prime Minister and he continued the process of Constitution making. Now, both the Governor General and Prime Minister had secular ideology. The Prime Minister announced that on December 25, 1954, the Constitution would be given to the citizens of Pakistan.

As per the Constitution, general elections must be held soon. The Governor General, Ghulam Mohammad, did not appreciate this so he issued an ordinance and dismissed the Constituent Assembly. Mr. Chaudry Mohammad Ali, the Prime Minister, knew the demands of the people and the Ulema regarding Islamization in Pakistan through the Constitution. Finally, on 8th January, 1956, he presented a bill of law which was approved on 29th February, 1956. On March 2, 1956, the Governor General approved and on 23rd March, 1956, Pakistan was declared an Islamic Democratic Country. The Religio-Political elite appreciated this act of the government and they celebrated the occasion and finally the Ulema were successful to give an Islamic Constitution to the people of Pakistan to promote Islamic Democracy.

Conclusion:

The Ulema always played a vital role in creating a positive socio-political environment. During this process, there were many bitter experiences such as violence, unrest, and extremist behavior. Since the creation of Pakistan until 1956, the efforts of the Ulema were endless, regarding implementation of their suggestions for the Constitution of Pakistan. It can also be observed that even though they had their own school of thought identity and political parties, they put aside their differences and showed unity to the secular forces of Pakistan, especially during the process of constitution making and the Qadiani movement. In 1956, the government, which was deadly against the term of Islamic Democracy or Islamic Republic, had to approve and produce an Islamic Constitution and declared Pakistan as the Islamic Republic of Pakistan. This must be considered a great success of the Ulema and a great political achievement of the people of Pakistan.

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