

Chapter # 3

Constitution



QUESTION – 1:

What is Constitution? Write the importance of constitution.

Constitution

Constitution is the supreme law of any state. Every state has its own constitution. Constitution describes the basic structure of state, its organs, legislature, executive and judiciary and their internal relationship.

Need For A Constitution

There are the following points for the need of a constitution.

- It is necessary for every country.
- It provides leadership to manage the government affairs.
- It is the basic law of any state as every state has its own constitution.
- It describes the basic structure of state, its organs, legislature executive and judiciary and their internal relationship.

Austin's Definition

Austin describes the definition of Constitution in such a way;

“The form of law which describes the basic structure of state is called constitution.”

Importance of Constitution

The Importance of Constitution can be stated as under:

Supreme Law

Constitution is the supreme and essential law of every state, which cannot be forgotten.

Basic Law

Constitution is the basic law, collection of laws and traditions of any state which cannot be forgotten.

Constitution As A Law

Every individual and institution is subordinate to the Constitution of the country.

Serious Crime

It is the duty of every person to obey the constitution because violation of constitution is a serious crime.

Loyalty To the Constitution

Every Government must follow the constitution and remain loyal to it.

Government's Duty

Every government performs its duties and functions within constitutional limits.

Basic Object



Constitution defines the basic objective and priorities of the government.

Reflect the Emotions

Constitution reflects the emotions and feelings of the people.

State Policy

Policies and the laws of the state are made in the light of the constitution.



Absence May Cause Chaos and Confusion

Because of absence of constitution it may cause chaos and confusion in the state.

Power and Functions of the Government

Powers and Functions of three important organs of Government are defined in the light of constitutions of the country.

Check the Monopoly

Constitution may check the monopoly of Governmental institutions or agencies.

Protect the Right of the People

Constitution may protect the right of the people and people are equal before law.

Main Object of Creation of Pakistan

Pakistan came into being in the name of Islam. So the people of Pakistan can lead their lives according to the basic principles of Islam.

Salient Features of Objective Resolution

QUESTION – 2

Objective Resolution

After the death of Quaid-e-Azam on 11th September 1948, the responsibility of framing the constitution fell on the shoulders of the first Prime Minister, Liaquat Ali Khan. This resolution was passed by the First Constituent Assembly in March 1949 under the leadership of Liaquat Ali Khan.

Salient Features of Objective Resolution

The salient features of the Objective Resolution are as follows:

Sovereignty Belongs to Allah

The resolution clearly laid down that sovereignty over the entire universe belongs to Almighty Allah alone and the authorities to be exercised by the people of Pakistan as a sacred trust.

Federal System

Federal System of Government will be introduced in Pakistan.

Golden Principles of Islam

Principles of democracy, equality, freedom and social justice as laid down by Islam shall be fully observed.



Supreme Authority of the People

The sovereignty of the state will be established through the elected representative of the people.

Life According to the Teachings of Islam

The Muslims shall be provided with opportunity to order their lives in accordance with the teachings and requirements of Islam.

Protection of the Rights of Minorities

The rights and interests of the minorities to freely profess and practice their religion will be protected.



Equal Rights to Citizens

All citizens will enjoy their rights on the principle of equality.

Development of Under Developed Areas

All efforts will be made for the development and progress of the under developed areas.

Independence Judiciary

Judiciary will be independent.

Objective Resolution and Liaquat Ali Khan

While introducing the resolution in the Constituent Assembly, Liaquat Ali Khan said:

“The ideals that promised the demand for Pakistan should form the corner stone of the state. When we use the word ‘Democracy’ in the Islamic sense it pervades all aspects of life. It relates to the system of government and to our society will equal validity because one of the greatest contributions of Islam has been the equality of men.”

Importance of the Objective Resolution

This resolution is of fundamental importance in the history of constitutions making in Pakistan because from the first constitution of 1956 till the constitution of 1973 (present constitution) whatever constitution was framed it was based on this objective resolution. It contains those steps and principles which were to be taken for the fulfillment of the basic aim of the freedom struggle that is the establishment of an Islamic society in Pakistan. Hence, it is a significant document in the constitutional history of Pakistan.

When Liaquat Ali Khan visited America, in the course of his speech at New Orleans, he said,

“We believe in God and his Supreme sovereignty because we believe that civic life must have an ethical content and a higher purpose. But democracy, social justice, equality of opportunity and equality before the law of all citizens irrespective of their race and creed are also aspects of faith with us.”

Basic Principles Committee

After passing the Objective Resolution, the Constituent Assembly of Pakistan set up a “Basic Principle Committee” to spell out proposals for the constitution in accordance with the guidelines contained in the Objective Resolution.

Conclusion

All the above mentioned principles were present in the Objective Resolution that is why this resolution is considered an important event in the constitutional history of the country. It was accepted by all classes of

people. It provided a guide line for the future constitutions of Pakistan which were passed in 1956, 1962 and 1973. It consisted of such principles which revealed that character of constitution shall be Islamic.

Evolution of Constitution Making in Pakistan

QUESTION – 3



The Meaning and Importance of Constitution

Constitution is the collection of those basic principles and laws which explain the rights of the citizens, powers of different departments and their mutual relations. The constitution is the backbone of any country. The country is like a trust for the life, and protection of people of the country. It protects the rights of citizens and proves helpful in running the system of a country in an organized way.

Government of India Act 1935

Government of India Act, 1935 was enforced with little changes and amendments at that time when Pakistan was newly born. The aim was to run the government temporarily till the constitution is made. India Act was prepared by English and this could not fulfill our needs according to our national requirements and interests.

Objective Resolution

The first step towards constitution making in Pakistan was taken in March 1949 when our first legislative council sanctioned Objective Resolution. Liaquat Ali Khan was the Prime Minister of Pakistan. This resolution is the base of our constitution, it is said that Allah is the supreme power and citizens of Pakistan will use it within limits of Quran and Sunnah. No constitution can be practiced in Pakistan which goes against the injunctions of Islam. It is the duty of the government to make arrangements for the Muslims of Pakistan to lead their lives according to the rules of Quran and Sunnah.

Preparation of Constitution

It was hoped that the constitution will be made within one and a half years after the sanction of Objective Resolution but unfortunately it could not happen. There were other reasons along with the murder of Liaquat Ali Khan. First Legislative Assembly made committee named the Committee of Basic Principles. Instead other sub-committees were also formed. But objective was not achieved and the process of constitution making became very slow.

Secondary Legislative Assembly

On 21st December, 1954 Governor-general of Pakistan Ghulam Mohammad dissolved the Legislative Assembly and the elections of second Legislative Assembly in 1955 were held in an indirect way. This new assembly started the work of constitution making once again.

Important Characteristics of the Constitution of 1956

QUESTION – 4

Constitution of 1956

The Legislative Assembly prepared first Constitution in 1956 which was enforced on March 1956. At that time Chaudhry Mohammad Ali was the Prime Minister. This constitution remained in action till 7th October 1958.

Important Features of the Constitution of 1956

Islamic Republic of Pakistan

Pakistan was declared as an Islamic Republic.

Federal Parliamentary System

Federal Parliamentary system was introduced in the country.

Sovereignty of Allah

It was affirmed that all powers belong to Allah and exercised through the elected representatives.



Lives According to Islam

People were provided necessary environment to lead their life according to Islam. Minorities were guaranteed full religious freedom.

Citizen Right

Full civic rights were guaranteed to citizen.

Independent Judiciary

Judiciary was guaranteed an independent work. Judges were given security of services.

Urdu and Bengali as National Languages

Urdu and Bengali were declared as national languages under the 1956 constitution.

Written Constitution

1956 constitution was written in home.

Abrogation of the Constitution

1956 constitution was approved after hard work of nine years but due to multiple reasons it did not last for long in October 1958 constitution was abrogated. Commander in Chief of Pakistan Army General Mohammad Ayub Khan imposed Martial Law by dissolving the cabinet and Federal Legislature. He assumed the office of President and Martial Law Administrator.

Important Characteristics of the Constitution of 1962

QUESTION – 5

Constitution of 1962

President Ayub Khan established a Constitutional Commission. This commission sent its recommendations. According to these recommendations a new constitution was prepared and enforced on 8th June, 1962 and Martial Law was finished.

The Main Features of 1962 Constitution

Following are the main features of constitution of 1962:

Written Constitution

The constitution was in written form and it constituted of 250 articles and 5 schedules.

Federal Constitution

The constitution was federal in nature.

Presidential Form of Government

Presidential form of Government was enforced instead of parliamentary system.

Islamic Issues

Various Islamic provisions were incorporated in the constitution i.e. sovereignty of Allah and exercises of power through the elected representatives of people. Pakistan was named as Islamic republic of Pakistan. Its Head must be a Muslim as compulsory.



Basic Human Rights

People were given fundamental rights.

National Languages

Urdu and Bengali were declared the national language of Pakistan.

Failure of Constitution of 1962

In 1968-69 the political parties of the country started agitation against Ayub Khan and Presidential system, enforced parliamentary system and democratic constitution. This movement became much powerful within few months and there were agitations seen everywhere in the country. As a result of such situation on 25th March, 1969 President Ayub Khan resigned and transferred his powers to Commander in Chief Yahya Khan. He abrogated the constitution of 1962 and enforced Martial Law in the country.

Islamic Provisions of 1973 Constitution

QUESTION – 6

Introduction

The following are the Islamic provisions of 1973 constitution based on the principles of:

1. Holy Quran and Sunnah
2. Islamic Republic of Pakistan
3. Pakistan shall be known as "Islamic Republic of Pakistan".
4. State Religion
5. Islam shall be the state religion of Pakistan.
6. Sovereignty belongs to Allah.

Sovereignty Belongs to Allah

Sovereignty over the entire Universe belongs to Almighty Allah and the authority bestowed by him on men is a sacred trust which the people of Pakistan will exercise with the limits prescribed by Quran and Sunnah.

Definition of a Muslim

The constitution also gives the definition of a Muslim. A person who believes in Tauheed or Oneness of Allah and in the prophet hood of Hazrat Mohammad

A Muslim to be A President and Prime Minister

The constitution lay down that only Muslims shall be elected President and Prime Minister of Pakistan. Non Muslims could not hold these offices.

Islamic Way of life

Steps shall be given to enable the Muslims of Pakistan to order their lives in accordance with the fundamental principles and basic concepts of Islam.

Promotion of Social Justice and Eradication of Social Evils

The state shall take necessary steps for prosecution of social justice and eradication of social evils and shall prevent prostitution, gambling and taking of injurious drugs, printing, publication, circulation and display of obscene literature and advertisements.



Teachings of Holy Quran

The state shall try to make the teachings of Holy Quran and Islamiat compulsory to encourage and facilitate the learning of Arabic language.

Strengthen Bond with Muslim World

The state shall endeavour to strengthen fraternal relations among Muslim countries in order to promote Islamic unity.

Council of Islamic Ideology

There is a council of Islamic ideology which shall guide the government in respect of Islamic teachings, their implementation and propagation. Its chairman and members are appointed by President. Although its advice is not binding on the government yet it is not easy for any government to ignore or over rule its suggestion or opinion regarding any law.

Error Free Publication of Quran

The government shall endeavour to secure correct and exact printing and publishing of the Holy Quran.

Oath to Project and Promote Islamic Ideology

The Federal and Provincial Ministers, the Speaker and Deputy Speaker of the National and Provincial Assemblies, the Chairman of the Senate and the Governors and Chief Ministers of the Provinces also take oath to preserve and protect the Islamic Ideology.

Ahmadi's A Non Muslim Minority

According to the second amendment of 1973 constitution, the Qadiani group or the Lahori group who call themselves "Ahmadi's" were declared as Non-Muslim minority.

Conclusion

The 1973 constitution enlisted the main principles of State Policy Maximum efforts were made to improve the character of this constitution. Like other constitution, 1973 constitution of Pakistan also provides for the protection, propagation and enforcement of Islamic Ideology.

Short Question and Answers

Q.1 Write any four features of Objective Resolution.

Ans.

1. Sovereignty belongs to Almighty Allah.
2. Rights of minorities were safeguard.
3. The Judiciary would be free and independent.
4. Fundamental rights of the citizens were guaranteed.

Q.2 Write any four features of constitution of 1956.

Ans.

1. It was a written constitution.
2. No law repugnant to Quran and Sunnah can be enacted in the country.
3. President would be Muslim.
4. The parliamentary type of Government was suggested.

Q.3 Write Islamic provisions of the constitution of 1952.

Ans.

1. The name of the country would be Islamic Republic of Pakistan.
2. President would be Muslim.
3. The existing laws would be made Islamic in character.
4. No law against Quran and Sunnah would be acceptable.

Q.4 Write any four features of 1962 constitution.

Ans.

1. It was a written constitution.
2. Unicameral Legislature was suggested. It means only one house known as National Assembly.
3. The President would be head of the state for five years.
4. Urdu and Bengali were recognized as National language.



Q.5 Write any four Islamic Provisions of the constitution of 1962.

Ans.

1. The name of the state would be "Islamic Republic of Pakistan".
2. Only a Muslim could become the president of Pakistan.
3. Teaching of Quran and Islamiyat was made compulsory.
4. The president would appoint "Advisory Council of Islamic Ideology."

Q.6 Write any four causes of fall of East Pakistan.

Ans.

1. East and West Pakistan were situated at a great distance from each other.
2. The social structure of the two wings was different.
3. Both wings spoke different languages. Bengali was spoken in East Pakistan.
4. Bengali Hindu teachers teach through negative thinking to East Pakistani students.

Q.7 Write any four features of the constitutions of 1973.

Ans.

1. The president must be a Muslim not less than 45 years of age.
2. The parliamentary form of Government was established.
3. The prime minister would be elected by the majority of the National Assembly.
4. Urdu was recognized as the National Language of Pakistan.

Q.8 Write the Islamic Provisions of the constitution of 1973.

Ans.

1. The country was named "Islamic Republic of Pakistan".

2. The President and Prime Minister should be Muslim.
3. All the laws were Islamized.
4. No law could be framed against the Islamic principles.

Q.9 What role should be played by a citizen of Pakistan for its development?

Ans. A good citizen should play the following duties for the development of Pakistan.

1. He should work hard for the economic growth.
2. He should be a patriotic citizen.
3. He should be well educated.
4. He should have pride to be called Pakistani citizen.



Fill in the Blanks

1. Constitution is the **Supreme** Law of any state.
2. Constitution is the **basic** law of any state.
3. Every government performs its duties and functions within **constitutional** limits.
4. After the independence of Pakistan, the Government of India act 1935, with certain amendments was adopted by **Pakistan**.
5. The Quaid-e-Azam was died on **11th September 1948**.
6. The Objective Resolution was passed by the First Constituent Assembly in March 1949 under the leadership of **Liaquat Ali Khan**.
7. On 21st December 1954 Governor General of Pakistan **Ghulam Mohammad** dissolved the Legislative assembly.
8. The first constitution of Pakistan was enforced on **23rd March, 1956**.
9. Pakistan was declared as an **Islamic Republic** under the first constitution in 1956.
10. In October 1958, the 1956 constitution was abrogated by Commander in Chief of Pakistan Army **General Mohammad Ayub Khan**.
11. A new constitution was prepared which was enforced by President Ayub Khan on **8th June, 1962**.
12. The Head of Pakistan must be a Muslim as compulsory under the **1962** constitution.
13. Urdu and Bengali were declared **National languages** of Pakistan under the 1962 constitution.
14. On 25th March, 1969 **President Ayub Khan** resigned and transferred his powers to Commander in Chief Yahya Khan.
15. The constitution of 1973 came into force on **14th August 1973**.

