

SOCIAL LEGAL TRANSFORMATION OF PAKISTAN

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Abstract

Pakistan came into being in 1947. It struggled a lot during its initial days. It did not come to consensus to make a constitution until 1956 but later on military regime intervened. It is a drawback of Pakistan that laws and the constitution are not made indeed for its people rather they are made for the selfish elite who come into the power time to time without the support of the people. An unelected person cannot make a law for the betterment of the people he always do things for his own interest.

Purpose - To point out weaknesses and hindrances in the social legal transformation of Pakistan and to recommend changes and best possible ways to build a highly social legal transformed society.

Design/methodology/approach - The treatise is made taking into account the qualitative approach by looking into the historical prospect of social legal issues of Pakistan and to come to a conclusion to draw a better picture if followed the suggested steps.

Findings - The paper includes the review of the history and weaknesses in legal transformation and comprehensive suggested steps to be followed to overcome the weaknesses and deficiencies.

Research limitations/implications - The paper is limited to the social and legal aspects of the transformation in Pakistan and does not go into the deep details of politics and culture.

Practical implications - Suggested steps can be followed by the legislature to make amendments in laws and to make more suitable laws which is a necessity for the better social transformation of Pakistan.

Originality/Value - The research is a good piece and has an importance in its field and may help a lot in the development of the country and the region specially and the world at large generally.

Keywords: Islamic rulers of the sub-continent; British India and its laws; Constitution of Pakistan 1956,1962 and 1973.

Research type: The said research is a critical analysis on the development and transformation of Pakistan with respect to law and social justice.

Introduction

Maharajas of India ruled over India for decades and they were considered oppressors because they did not give much rights to the people of India during their reign. Raja DAHIR was the ruler of Sindh when Muhammad bin QASIM came with a Muslim army and defeated him and his army in 712 AD. Muslim rulers came to India and they also ruled over India for decades, they did some beneficial deeds for the people of India and the best example is that Islam spread thereafter in the subcontinent, but they did not do any kind of legislation for the betterment of the people of this area except the ruler ALAMGIR, who compiled the decisions of the Muslim Jurists which is belonged to the HANAFI School of thought, in a book named FATAWA AALAMGIRIA. HANAFI School of thought is one of the four schools of thought in an Islamic Law whose founder was Imam Abu HANIFA, who did not write many books but his pupils Imam Muhammad bin Hassan Al-SHEBANI and Imam Abu YOUSUF wrote many books and referred them to their teacher Imam Abu HANIFA. In last years of the Muslim reign in India, Muslim rulers indulged in luxuries and their main focus was to hold the power for a longer period of time and they did not do many good things for the benefits of the people. England entered India step by step; first they started trade in India and took permission from the Muslim rulers for their trade activities.

England captured the Bay of Bengal in 1757 and defeated the ruler of Indian state MAYSOR; TIPU Sultan in 1799; before capturing the whole India in 1857. The war of 1857 was fought by Muslims and Non-Muslims of India together against England but after the defeat in war India became the colony of England and it gave more importance to Non-Muslims and provided them government jobs and others facilities but Muslims were in minority and they struggled a lot during that reign.

Muslim population were not familiar with English language curriculum that is why they did not send their children to the schools built by the government but Non-Muslims started to study in English medium schools and they got government jobs. After 1857 England passed several statutes, but unfortunately they were most of them for the protection of its ruling elite and for the continuation of its control over India. Pakistan Muslim League was built in 1906 to raise the voice of Muslims in front of the ruling elite. People of India were oppressed during Hindu Maharajas period, during Muslim oppressors and during the British Government as well especially minorities struggled a lot. They only enjoyed few benefits, but they did not have enough fundamental rights and they were oppressed by the ruling elite within and without.

After the independence of Pakistan in 1947, it has adopted British Indian Laws as well as the British Indian Constitution of 1935. Pakistan made its first constitution in 1956, which did not last along and was abrogated by the military regime in 1958 and thereafter the military dictator gave his self made constitution in 1962 which was a clear cut power generator for him and he was made a sole power source of the country. Though the economic situation of the country during the military reign was not bad but voice of the people was not heard and a pure electoral system was not formed. East Pakistan

became Bangladesh in 1971 due to the mistakes of the ruling elite because they were not giving much rights to the citizens. The general assembly passed the third and the existing constitution of Islamic Republic of Pakistan in 1973, but unfortunately the ruling elite; who have been coming into the power through rigged elections; changed and amended it as they wanted it for their personal benefits and not for the benefits of the general public. People of Pakistan are still in need of a pure electoral system, a trustworthy government and a bunch of representatives who work for their benefits and not for their own benefits. Most of the laws of the country are needed to be amended according to the wishes of the society and according to the customs, traditions and norms of Islam because it is a consensus of the society that in Pakistan no law shall prevail which is against the principles of Quran and Sunnah.

Historical Background

Hindu rulers ruled the Indian sub-continent for centuries until 92 AH when Muhammad Bin QASIM defeated the ruler Raja DAHIR and conquered the area which is part of modern day Pakistan in 712 AD. Muhammad Bin QASIM is considered a good ruler, he gave rights to the Non-Muslims as well, and because of this many non-Muslims converted to Islam. It is reported that when he was leaving India, non-Muslims were weeping and after him they made his idols. He gave many non-Muslims positions in the administration.¹

Mahmud of GAZNI did seventeen attacks on Indian capital New Delhi and at last conquered it. He ruled over it from 997 till 1030 AD. He took wealth from the rich people and distributed among the poor people of India. There after Muhammad of GHOR ruled over India from 1173 AD until he was killed while he was performing prayers in 1206 AD at the place near Jhelum, Punjab, Pakistan. There were plenty of Muslim dynasties in India started with the slave dynasty or a MAMLUK dynasty from 1206 AD with the emergence of QUTUB-UL-DIN AIBAK, he was the slave of Muhammad of GHOR and he gained power in 1206 after the death of Muhammad. QUTUB died while playing polo in 1210, he was the founder of MAMLUK dynasty and built the famous QUTUB MINAR in New Delhi. He laid the stone of the traditions of Muslim rulers of India to make beautiful place in India. After him many other Muslim rulers made special places in memories of their loved ones.²

The KHILJI dynasty came into being in 1290 AD until 1320. It was formed by FERUZ KHILJI. That dynasty was all bloodshed, there were killings and noise all over India, and it was ended when the last ruler Mubarak Shah was killed by his army chief and then GHIYATH-UL-DIN TUGLUQ captured New Delhi and announced the inclusion of the TUGLUQ dynasty in 1320.

¹ Derryl N. Maclean, Religion and Society in Arab Sind, Netherlands, E.J. Brill, 1989, at 58 & 59

² Hamid Waheed Alikuzai, A Concise History of Afghanistan, USA, Trafford, 2013, at 122

The TUGLUQ dynasty went off until 1414 AD, in which FEROUZ Shah TUGLUQ ruled from 1351 until 1388, a city in Indian Punjab Ferozepur is named after his name though he is not considered by some as a beneficial ruler for the people.¹

The Syed dynasty was started from 1414 to 1451, they claimed to be the decedents of Prophet Muhammad (peace be upon him). KHIZR Khan was the founder of the said dynasty and he never claimed himself a ruler, he considered himself the vassal of TIMUR and his son Shah Rukh. ALAM Shah was the last ruler of the said dynasty who surrendered in favor of BEHLOOL LODHI, the founder of the LODHI dynasty in 1451. The reign of LODHI dynasty was from 1451 until 1526, where BEHLOOL LODHI, ISKANDER LODHI and Ibrahim LODHI ruled the Indian sub continent.

Thereafter Mughal Empire came into being with the entrance of Baber who ruled from 1526 until 1530 AD. He defeated Ibrahim LODHI in the first battle of PANIPUT. He was died in 1430 AD and buried in Kabul, Afghanistan. Thereafter his son HUMAYU ruled from 1530 until 1556 but during his tenure Sher Shah Suri ruled over India from 1540 to 1545. HAMAYU was considered a perfect man due to his devotion for the people of the area.

AKBER was crowned in 1556 AD after the death of his father HUMAYU. He introduced a new religion with the mix principles of Islam and Hinduism, to seek the support of non Muslims. Mughal dynasty tripled in size during his tenure. Non-Muslims were given administrative posts in his tenure. Muslim Jurists were not happy with him.² He ruled over Indian from 1556 till 1605 AD.

East India Company was established in 1600 AD during the reign of AKBER, but thereafter his son Jahangir came into the power and gave permission to British Traders in 1609 to trade in Indian sub continent. Jahangir ruled India from 1605 until 1627 AD.

Shah Jahan was the third son of Jahangir, he came into the power in 1628 AD after the death of his father. He made the Taj Mahal in memory of his loving wife.

ORANGZAIB ALAMGIR ruled over India from 1659 till 1707 and he compiled the Legal Opinions of the HANAFI School of thought in Islamic Law in the book called FATAWA AALAMGIRIA. After him six or seven rulers came and they all were indulged in luxuries and people of India were in a difficult situation at that time because of the war which was started slowly between UK and the Mughal Empire.

England captured Indian Bengal in 1757 by defeating the ruler SIRAJ UL DULA and MAYSUR in 1799 by defeating its ruler TIPU Sultan with the help of their spies, Mir JAFAR and Mir SADIQ. The last Muslim ruler of Indian sub-continent was BAHADUR Shah Zafar, he was captured and sent him to Burma, where he was died in 1862.

Muslims and Non Muslims of India fought together against the British Empire in 1857 but defeated by the British Army. England conquered New Delhi and made India as its colony in 1857. It introduced many laws which were later on became the laws of India and Pakistan separately, after some amendments they are still existing laws of Pakistan, India, Bangladesh and many other South Asian and South East Asian Countries.

¹ R.S. Chaurasia, History of Medieval India, India, Atlantic Publishers and Distributors, 2002, at 74 & 75

² John F. Richards, The Mughal Empire, UK, Cambridge University Press, 1995, at 36 & 37

Institution of British Legislation in India

The Government of India Act was introduced in 1858 by the British Government, in which it was prescribed that the Queen will be the Head of the Indian State and her representative will be the ruler of India, who will be the Governor General, but will be called the Viceroy. The rule of the East India Company was terminated with the emergence of the said act.¹ The Board of Control of India shall be dissolved and the Secretary of the state of India will take up the powers granted to the Board of Control of India. Indian Civil Service was also introduced under the control of the Secretary of the State.

The Indian council act was introduced in 1861 through which the viceroy’s executive council transformed into a cabinet which is consisted of six members. The then Secretary of state of India Charles Wood stated that this is an enormous act which will bring good in the region.²

The said act helped Indians to make an influence in the legislative council. The Indian Council Act of 1861 was later on amended in 1892 and it enhanced the non-official members both in provincial and central legislative councils. The Indian Council Act of 1861 which was amended in 1892 was repealed by the Government of India Act of 1915.

In 1906 Lord MINTO was the viceroy of India and Lord Morley was the secretary of the state of India. They prepared a document and gave their recommendations for the social legal reforms in Indian state, which was approved by the British Parliament in 1909.

Local Bodies system was formed under the MINTO-Morley Reforms of 1909, its representatives were to be selected by the people of the India directly. An electoral college was also formed; its representatives were to be selected by the votes of the local body’s representatives. A provincial councils and an imperial council were also formed. An imperial council had sixty members.

The Government of India Act of 1915 is basically an act to amalgamate all previous enactments of British India. It was consisted of 135 section and five schedules.

The Government of India Act was introduced in 1919 on the recommendations of the Secretary of the State of India Edwin Montagu and Viceroy Lord Chelmsford according to which a diarchy was formed. The basic purpose of the act was to expand participation of Indians in the Indian Government. In the said act, the administrative wing of the state was divided into two parts, each separate from the other part. Ministers of the state were representatives of the people. Members of the executive council were representatives of the ruling elite, they were appointed by the Governor General and may be dismissed by him.

¹ The Government of India Act-1858, S 1

² S.N. Sen, History Modern India, India, New Age Publishers, 2006, at 110

The Governor General was answerable to the legislature; it can remove him from his seat with the vote of no confidence. The department of finance was under the supervision of the executive council. All nation building departments were under the control of ministers but all new projects cannot be inaugurated without the consent of the finance secretary.

These reforms were repealed but took into consideration for the making of the Government of India Act in 1935, which later on was adopted by India and Pakistan as their temporary constitution in 1947, until they make their own constitutions.

The Government of India Act was introduced in 1935. It was a comprehensive constitution for the British India, which represented the federation. Governor General was the highest authority at the state but the head of the state was Queen. Diarchy system which was existed in earlier acts remained there in the 1935 Act as well. There was a rule of accession in the said act, according to which an independent state can join the British India as one of its parts.

The executive wing of the state was headed by the Governor General and he was the head of the armed forces as well. He was responsible for the appointments and dismissals of the ministers as well as fixation of their salaries. Special responsibilities of the Governor General were peace keeping, maintaining finance and safeguarding interests of the minorities.

At federal level Governor General was authorized to appoint three councilors for the majesty’s council and they were answerable to him. He also authorized to appoint ten council of ministers and they were answerable to the general public of India.

At provincial level a governor was appointed by the queen and he was answerable to the Governor General of India. He was liable to take advices from the council of ministers but those advices were not binding upon him, he could take decisions on his own at provincial level.

The Indian Parliament was made of the King, Governor General and two houses. The upper house was called the house of assembly which was headed by the speaker and it was consisted of 250 members as the lower house was called the council of state and headed by the president. It had 156 members. A joint sitting could not be called except with the permission of the Governor General.

Financial bill had to be passed in a joint sitting but other bills could be passed in any of the houses.

The drawbacks of the legislative assembly of India under the 1935 act were that it could not amend or repeal any law passed by the British parliament, it could not amend or repeal the order passed by the Governor General of India, it could not amend any act of India and it could not do any legislation with respect to foreigners as well as with respect to discrimination.

The Government of India Act 1935 was actually made to protect the British ruling elite and the British Parliament to continue their superiority over Indian people and Parliament.

The judiciary had an original jurisdiction to decide a dispute, an appellate jurisdiction to review lower judiciary decisions and an advisory jurisdiction to give advices to the government. Superior judiciary was the custodian of the 1935 constitution.

1935 act was a comprehensive piece of writing, which was accepted with some reservations by all the major political parties of India whether Muslim or non-Muslim. An election was also held and a government was also formed under the 1935 act but Muslim Hindu conflict was the main reason of the separation of India.

The last viceroy Governor General Lord Mount Batten made consultations with Indian Congress and Muslim League and came to a conclusion of two separate states India and Pakistan.

An Indian Independence Act was passed by the British Parliament in 1947, according to which two dominions were formed: Pakistan and India. A dominion is a country which is a part of commonwealth. One Governor General could be appointed for both dominions. Mount Batten wanted to become the Governor General of Pakistan and India. Pakistan rejected to make him as its first Governor General and Muhammad Ali Jinnah took oath on 11th August 1947 as the first Governor General of Pakistan, because of this Mount Batten pressurize Redcliff Line Commission to put many Muslim populated areas into India rather than in Pakistan and because of this injustice Kashmir Conflict took place and Pakistan and India have fought three wars and many small conflicts since 1947.

Two constituent assemblies were formed for making of the new constitution for their homeland as well as for making of the new laws as well as for making amendments in existing laws of British India. From 1947 onwards the assent of the King or Queen has been no weighed in Indian Subcontinent as well as the British Parliament cannot do any legislation for the Indian subcontinent and the office of the secretary of the state of India was dissolved and all agreements solemnized between the Indian Government of England and other states has ceased to have effect.

After Independence of Pakistan

The government of India Act 1935 was the first constitution of Pakistan. Under the Indian Independence Act of 1947, it was decided that all previous laws passed by the British Parliament for India will continue to apply unless otherwise decided by the Constituent Assembly. The Governor General was given powers to accept or reject the law passed by the constituent assembly. The Governor General was given many other powers under the independence act of 1947, for example he was the chief executive as well as the head of the state and he was authorized to nominate the prime minister and other ministers of state.

Muhammad Ali Jinnah nominated LIAQUAT Ali Khan as the first prime minister of Pakistan; he remained on his seat unless he was killed in Rawalpindi on 16th October, 1951. He was also a commander in chief of the armed forces, he was authorized to call the

session of the parliament and he was given powers to accept or reject the resolution passed by the parliament.

All provincial assemblies were under the control of the Governor General thus he was authorized to nominate Governors of all provinces. The provincial Governors were authorized to appoint the provincial ministers but that appointment must be approved by the Governor General.

The objectives resolution was passed by the first constituent assembly of Pakistan in 1948 which laid down the principles of the new constitution and future laws of Islamic Republic of Pakistan.

The resolution stated that the sovereignty belongs to Al-Mighty Allah and the authority will be exercised by the people’s representatives within the limits prescribed by him in the Holy Quran and the Sunnah, principles promulgated by Islam shall be fully observed, Muslims of Pakistan shall order their lives according to the teachings of Islamic Law, minorities are free to act according to their religion, fundamental rights shall be guaranteed to all citizens of the state, the independence of the judiciary shall be fully observed, the government shall safeguard minorities interests as well as safeguard the integrity of the territories of Islamic Republic of Pakistan.

A basic principle’s committee was formed on 12th March, 1949 to recommend a structure for the new constitution of Pakistan as well as to decide the eligibility of the voters and to decide status of different posts of the judiciary.

First report of the committee was presented by the then prime minister LIAQUAT Ali Khan in 1950. Second report was presented by the second prime minister of Pakistan KHUWAJA NAZIM-UL-DIN on 22nd December, 1952.

Lastly on 23rd March, 1956 the new constitution of Pakistan was promulgated when Prime Minister of Pakistan was Muhammad Ali BOGRA. It had 234 articles which were consisted in thirteen parts, also included six schedules.

In the constitution of 1956, Pakistan was declared Islamic Republic of Pakistan and the dominion under the 1935 act was ceased. Principles of Policy were introduced for the government under the provisions of the Holy Quran and Sunnah.

The post of Governor General was ceased to exist instead the post of the President was introduced. He should be at least of 40 years old at the time of his appointment and must be a Muslim. He was required to formulate an Islamic research organization for the establishment of the true Islamic society. He also was authorized to make the appointments of the chairman and the other members of the election commission of Pakistan, Public Service Commission and the Delimitation Commission as well as the appoint of the Prime Minister amongst the members of the National Assembly of Islamic Republic of Pakistan , but the appointed Prime Minister must take the vote of confidence from the National Assembly within 2 months from the date of his appointment otherwise the president may remove him if he loses the confidence of the members of the National Assembly.

The legislature was unicameral consisted of 300 members, 150 seats were allocated to the west Pakistan and 150 seats allocated to the East Pakistan and 5 seats each were allocated for women in both parts of the country. The concept of one unit was introduced.

The National Assembly was required to meet at least twice in a year and at least once in a year at Dhaka. Direct elections were required to be conducted and every citizen of Pakistan having the age of 21 years, was eligible to vote.

Three lists were introduced: the federal list consisted of 30 items, the provincial list consisted of 94 items and the concurrent list consisted of 19 items.

Fundamental rights were guaranteed to the general public under the said constitution but the president was authorized to suspend those rights in emergency situations.

Urdu and Bengali both were accepted as national languages and the English was accepted as official language of the state.

The constitution of 1956 did not last a long and was abrogated by the then president ISKENDAR Mirza on 7th October, 1958. He appointed AYUB Khan as the Chief Martial Law Administrator of his regime. President felt that the power is sliding down from his hands towards the Chief Martial Law Administrator thus he appointed AYUB Khan as his Prime Minister on 24th October, 1958 but AYUB Khan refused to take oath and he; with the help of armed forces officers; arrested ISKENDAR Mirza and gained the position of the Chief Martial Law Administrator on 27th October, 1958.

After the promulgation of the 1962 constitution, he made himself the President of Pakistan. Later on in 1965 the elections of president ship took place, in which he defeated; with massive rigging; the other candidate Fatima Jinnah who was the sister of the first Governor General of Pakistan.

The constitution of 1962 was the second constitution of Pakistan. The first constitution was enforced on 23rd March 1956 and abrogated on 8th October 1958. The second constitution was promulgated on 1st March 1962 but enforced on 8th June, 1962. It consisted of 250 articles in 12 parts and 3 schedules.

It introduced the presidential form of government and the president was vested almost all powers of the decision making. He must be at least 35 years of age and a Muslim. The term of president ship was for five years and not more than two terms can be taken by anyone. He had the sole authority to appoint major heads of all the federal institutions of the country under the federal government.

The constitution provided unicameral legislature, like the previous constitution of 1956 but it deduced the seats into 156, later on seats were increased to 218 with an amendment in the constitution with 6 seats allocated to women. Equal seats were allocated to both parts of the country. Only 80,000 people were allowed to vote and later on number increased to 120,000 as it was an indirect voting system equally divided into two parts of the country.

The executive authority rested in the president and he was authorized to exercise the veto power in the legislative affairs. He also was authorized to issue ordinances if the assembly was not in session or if there was an emergency situation, but it needed approval of the National Assembly within 108 days of its promulgation. For both parts of the country, two provincial Governors were appointed by the President.

The name of Pakistan was changed from Islamic Republic of Pakistan to Republic of Pakistan, but later on, with the pressure of the general public, a first amendment was passed and the word Islamic was added in the name of the country.

The president had powers to appoint the chief justice of the supreme court of Pakistan and the chief justices of the high courts of Pakistan. He also had the authority to remove a judge after an inquiry and determination on the grounds of misconduct, mental incapacity or physical illness.

In a period of 8 years of this constitution, eight amendments took place and on 25th March, 1969 it was abrogated by the same person who promulgated it. General AYUB Khan abrogated his own constitution and handed over the powers to another military dictator General YAHYA Khan on 25th March, 1969, who announced the general elections under Legal Frame Work Order. Pakistan People’s Party won the majority seats in West Pakistan and AWAMI League won the majority seats in East Pakistan but YAHYA Khan did not transfer the powers to the majority party and started military operation in East Pakistan, later on East Pakistan was demolished due to the mistakes of the ruling elite of Islamic Republic of on 16th December, 1971.

General YAHYA Khan handed over the powers to Zulfikar Ali Bhutto, who became the first civil martial law administrator on 20th December, 1971. He made a committee for the making of the new constitution of Islamic Republic of Pakistan. The third and the existing constitution of Islamic Republic of Pakistan approved by the national assembly of Pakistan on 10th April, 1973 and was promulgated and enforced on 14th August, 1973.

The constitution of Islamic Republic of Pakistan has 280 articles, consisted in 12 parts and 7 schedules. Part number one is introductory which says that the Pakistan has four provinces and the government will eliminate all forms of exploitation from the country. Islam is the state religion of Pakistan thus it is not a secular country like India. The objectives resolution was made the preamble of the constitution and later on it was made its effective part with the inclusion of article 2A in the constitution. All citizens have been guaranteed fundamental rights provided in the constitution, they can do all legal acts and they cannot be stopped from doing any legal act and cannot be forced to do any illegal act.

All articles of the constitution has prospective effects except the article number 6 which has retrospective effect which says that any person guilty of an offence related to the abrogation of the said constitution has committed a high treason and is liable to the capital punishment.

Part number two deals with the fundamental rights and principles of policy. Provisions of fundamental rights are binding upon the government as the provisions of the principles of policy are not binding upon the government.

Fundamental rights protected under the existing constitution of Pakistan are namely: protection of life and liberty, protection against illegal detention, a right of due process and free trial, protection against slavery and forced labor, protection against retrospective punishment, protection against jeopardy and self incrimination, protection of home and protection against torture for the purpose of extracting an evidence, freedom of movement, assembly, association, trade, business and profession and freedom of

speech, right of information, freedom of religion, protection against imposed religious taxation, protection against imposed attendance of religious institution, right to acquire property in any area of Islamic Republic of Pakistan and protection of property rights, rule of law shall be fully observed and therefore everybody is equal before the law and there is no discrimination, right of education is also observed and the federal government will provide free education to all the citizens of Pakistan, right to access public places by all citizens except when there is a separate place arranged for women only, male entrance will not be allowed there, protection against discrimination in services and protection of Urdu language and the culture of Islamic Republic of Pakistan.¹

Part number three deals with the federation which includes the president and the legislature. The president is the head of the state; he must be a Muslim and at least 45 years of age. He will be elected by the joint sitting of the bicameral legislature for the term of five years.

The president cannot held his position for more than two terms. He was authorized to appoint the Attorney General, the Chief Election Commissioner; Governors of provinces and judges of the Supreme Court and High Courts. The president can be impeached or removed from his place on the charges of misconduct and violation of the constitution as well as on physical and mental sickness.

The President is liable to act on the advice of the prime minister of Pakistan, who is the head of the executive wing of the state and the leader of the house. He is authorized to elect federal ministers and ministers of the state amongst the members of the parliament.

The said constitution suggests bicameral legislature; the upper house is the senate and the lower house is the national assembly. Initially the national assembly had 200 members which later on enhanced with amendments in the constitution, nowadays total number of members are 342. The senate was initially had 63 members which later on increased and nowadays it has 104 members.

Part four deals with the provinces, every province has a unicameral legislature with the leader of the house called the chief minister. The governor of the province shall be appointed by the president of the Islamic Republic of Pakistan.

Part five deals with the administration and part six deals with the financial matters. Part seven deals with judicature, there is one Supreme Court and five High Courts in the country. The Federal SHARIAT Court has been formed to decide issues related to Islamic Law, it also has powers to see existing laws whether they are in accordance with the injunctions of Islam or not. An Islamic Advisory council was also formed to give recommendations to bring existing laws of Pakistan in conformity with the injunctions Islam. Part eight deals with the election process and part nine has some Islamic Provisions. Part ten deals with the emergency situations in the country and part eleven deals with the amendment procedure. An amendment may be made in the constitution in a joint sitting with 2/3 majority. Last part has miscellaneous provisions

¹ AA 9 to 28, The Constitution of Islamic Republic of Pakistan-1973

related to the armed forces of Pakistan, Tribal Areas, Service matters and Interpretation issues.

After the promulgation of the constitution of Pakistan 1973 people felt a change in the society but it was not a long ago when in 1977 Army Chief General Muhammad ZIA-UL-HAQ abrogated the constitution and he said later on that he did not abrogate the constitution but it was held in abeyance.

Due to Afghanistan War against the Russia, Pakistan affected a lot and at least 2 million refugees crossed the border and came to Pakistan. After the death of General ZIA-UL-HAQ in 1988, first Benazir Bhutto and then Nawaz Sharif took two terms as Prime Minister but country went down economically. In 1999 General PERVAIZ MUSHARAF took over the charge of Pakistan and he was there until 2007 as Army Chief and gave a resign as President in August, 2008.

BENAZIR BHUTTO was assassinated on 27th December, 2007 and his husband took charge as the president of the country as his party won the elections in 2008, but it was considered a rigged elections as it was under the umbrella of PERVAIZ MUSHARAF.

People of Pakistan thought that this is a time for us to change the corrupt system but it was all wrong as the reign of ZARDARI broke all the records of corruption during his tenure from 2008 till 2013.

MIAN Muhammad Nawaz Sharif has been elected as the new Prime Minister of Pakistan in 2013. Two years has been passed. All major parties of Pakistan are on a consensus that the elections which was held in 2013 was rigged and they demand an inquiry under a judicial commission and a new fair and free elections under a neutral setup.

Conclusion and Recommendations

Pakistan needs a leadership and bunch of a trustworthy politicians who should come in the power through fair and free elections to contribute in the new developed structure building of a country. It needs a constitution to be amended and changed according to the general interests of the people. Laws are also required to be made and amended for keeping in mind the interests of the general public of Pakistan and not keeping in mind the ruling elite only, who have done enough corruption and has made every illegal thing legal; through amendments in the laws; according to their own wishes.

I would like to give some suggestions as follows:

1. The Parliament must make a Judicial Committee which will be a body of well known judges; whether they are in office or retired; and other senior lawyers with a bunch of juniors as well, who will see each and every law of Pakistan and suggest changes according to the society, culture and customary practices of the people of Islamic Republic of Pakistan.

The powers of the committee must be limited to recommendations only as they are not elected representatives of the people so they cannot make legislation, they can only give recommendations and suggestions.

2. The Government of Pakistan should make a body of seniors and well qualified people of the specialized fields, who will give suggestions related to their area of practice and those suggestions will be given to the Judicial Committee and that committee will scrutinize those suggestions and thereafter recommend them to the legislature for the making of a new law or changes in the existing law.

As mentioned earlier these committees shall not be formed to make changes in laws or to make new laws, these may be formed for taking suggestions only as they are experts of their fields and in Pakistan mostly representatives of the people do not have enough capabilities in all areas.

3. Major laws of Pakistan like code of civil procedure, code of criminal procedure, specific relief act, penal code are all were legislated by the British Parliament before the independence of Pakistan. These laws are required to be amended in the interest of the general public of Islamic Republic of Pakistan.

4. Though the law of evidence, which was passed before partition in 1872 has been repealed and a Qanoon-e-SHAHADAT Order has been passed in 1984, but it also needs to be amended a bit to fill the lope holes in the process of the evidence before the court of law for the smooth trial.

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