**Constitutional Issues**

Constitution is a set of basic principles and framework for governance and exercise of

political power and legal authority. It clarifies the scope of power, relationship among various

institutions within the government and society. It has precedence over ordinary laws and cannot

be changed like ordinary laws. The Government of India Act (1935) was modified and

promulgated in the newly state of Pakistan. The elected members in the 1946 elections made the

first Constituent Assembly that faced grievous circumstances.

**Major Issues**

The major issues, the first constituent assembly faced, were about:

1. Federalism

2. Representation

3. Separate or Joint Electorate

4. The National Language Issue

5. Parliamentary or Presidential system

6. The Islamic or Secular State

**1: Federalism**

There was consensus on federalism but yet there were many issues to be settled. The

main was that Pakistan consisted of two territorial parts, East Pakistan (with more population,

less territory but administratively one unit) and West Pakistan (administratively 4 units).

Federalism is meant to accommodate such kind of diversity maintaining the unity of the state or

country.

**Division of power:**

 It was the most difficult question that how the power would be divided between Centre

and the Provinces. The heritage of British rule gave the tradition of a Strong Centre. But the

provinces were demanding more Autonomy and Provincial Rights.

In the Interim Constitution and the 1956 Constitution tradition of strong centre continued.

**2: Representation**

Representation at the federal level was another conflicting issue because East Pakistan

and West Pakistan were different in population and size. On the other hand there was diversity in

Western part of Pakistan. The provinces of West Pakistan were also different in population and

size. All of them were sensitive to their representation and provincial autonomy.

To have a Standard Formula for the representation of units and population the Constituent

Assembly (CA) formed a Basic Principle Committee (BPC) on March 12, 1949. The primary task

of this committee was to frame a set of basic principles for the future constitution of Pakistan.

**First BPC Report:**

This committee presented its first report on 28th September 1950. According to this report

two houses of the parliament were proposed. The lower house was to be elected on the basis of

POPULATION and the upper house was to be elected on the basis of equal representation for all

the provinces of Pakistan namely East Bengal, West Punjab, Sindh, NWFP and Baluchistan.

Equal powers were proposed for the both Houses. No mention of National Language was made.

East Bengal opposed this report and Liaqat Ali Khan withdrew it.

**Second BPC Report:**

BPC presented its final report on 22nd December 1952. According to this report two

Houses of the Parliament will enjoy the equal status and powers. It proposed equal

representation to East and West wing.

This report also faced reaction in both the wings of Pakistan. The principle of parity was

not appreciated in both East Pakistan and Punjab.

**Muhammad Ali Bogra Formula:**

Muhammad Ali Bogra immediately after assuming the office of the Prime Minister

presented a formula to resolve the deadlock in constitution making. According to this formula

Pakistan would have a bicameral legislature. In upper house there would be EQUAL

representation to each of five units. In lower house population will be represented. In this way

more representation was given to East Pakistan.

Both wings would have equal strength in joint sessions of the two houses.

**Reaction to Bogra Formula**

It was welcomed in both parts of the country. The principle of parity and representation of

the population was appreciated. It also solved the problem of national language by suggesting

Urdu and Bengali both as national language.

One Unit of West Pakistan October 1955

One Unit of West Pakistan was established on 14th October 1955. The provinces of

Punjab, Sindh, NWFP and Baluchistan would be amalgamated in one unit to establish parity

between the two parts of the country.

**3: Separate or Joint Electorate**

Separate electorate was adopted on the demand of Muslims in 1909 by the British

Government. But the minorities did not favour this after independence. Religious elements

supported this as a part of heritage.

East: decided for Joint Electorate.

West: Separate electorate.

1957: Joint Electorate was adopted for all Pakistan by the National Assembly.

**4: The National Language Issue**

Pre-independence: Muslim elite all over India adopted Urdu. In 1948 Jinnah declared that

Urdu would be the national language but provinces could use their languages.

Opposition against Urdu was there in East Bengal. This became more pronounced after

the death of Jinnah as controversies erupted on constitution making. Language Movement

started in East Pakistan February, 1952.

There was a complaint about anti Bengali language attitude of the federal government.

Two-language formula was adopted in 1954. Since 1973 Urdu was adopted as national

language along with the support for development of regional languages.

**5: Parliamentary or Presidential**

There was a consensus for parliamentary system. But there was a limited demand for

presidential system. Supporters of Presidential system became dominant after the 1958 military

takeover. The 1962 Constitution was a Presidential constitution.

 **6: The Islamic or Secular State**

From the very beginning of Pakistan Movement there was an agreement that the state

will have close relationship with Islam. Muslims defined their national identity with reference to

Islam and its heritage. Some opposition came from the Congress members of the Constituent

Assembly, and a few secularists.

There was a BROAD AGREEMENT that the state will identify itself with Islam. The Constituent

Assembly took time to define the precise relationship between the state and Islam.

**Objectives Resolution**

As discussed in lecture 16 Objectives Resolution rejected theocracy in Pakistan and

provided the basic objectives for the future constitution of Pakistan.

**The issues to be addressed were:**

1. Scope of legislation for an elected Assembly?

2. Who will decide about the Islamic nature of laws? Should a Board of Ulema be

given this power?

3. Position of women, vote and work?

4. Religious minorities?

Discussion in the Constituent Assembly and outside continued. There was an active

demand by religious elements for Islamic political system. In this context the leading Ulema of

various sects presented famous 22 points to provide a religious base to the future constitution.

**The Key Issue:**

What kinds of institutions and processes have to be created to translate the notion of supremacy

of the Qur’an and the Sunnah

• The Constituent Assembly adopted a middle course and a modernist perspective.

• Spirit of Islamic principles and values, modern notions of governance, representation and

administration were amalgamated.

Islamic provisions would be taken up when we discuss the constitutions.