

Reasons for Delay in the Constitution Making of Pakistan

Background:

When all of British Government's efforts to keep India and Pakistan united failed, they decided to partitioned the sub-continent into two separate states i.e. India and Pakistan on 14-15th August 1947 in the light of the Indian Independence Act 1947. The Act provided the new states would adopt the Government of India Act, 1935 as an interim constitution until they framed their own.

India managed to frame and promulgate its own constitution in 1950, within three years of independence. On the contrary, it took nine long years for Pakistan to adopt and enforce its constitution. Following are the reasons for delay in the constitution making of Pakistan.

Death of Quaid-e-Azam

The death of Quaid-i-Azam was one of the reasons for the delay in the constitution-making. On August 11, 1947 Quaid had given an outline for the country's future constitution assembly of Pakistan but he died on September 11, 1948, before he could give a constitution to his people.

Disagreement Over parity of Representation

Constitution making process started with the passing of the Objective Resolution by the Constituent Assembly on 12 March 1949.

After it passed the resolution, the assembly delegated the task of drawing basic principles to a committee called the Basic Principles Committee, in the light of the objectives for future constitution making. Objective Resolution not only identifying the objectives but also setting out

priorities that had to be pursued.

The Basic Principles Committee presented three reports. The first report was presented on September 28, 1950 which recommended parity of representation in the Central Assembly.

It created controversy among the assembly members of East Pakistan.

First Report

- Federal form of government
- Parliamentary system
- Bicameral Legislature in center and Unicameral in Provincial

East Pakistan Muslims were of the view that their representation should be more as they were in majority (56% of total population) in the new state.

^{In} ~~contrast~~ On the other hand the West Pakistani Politicians didn't want a dominant East Pakistan in the Central Assembly.

Consequently, no agreement was reached and the report was rejected.

Language Issue

The Basic Principles Committee presented its second report in 1952 which declared Urdu as the national language of Pakistan. Urdu as the national language was also opposed by East Pakistani members of the assembly. Since Bengali was the language of the majority of people, so they demanded to make Bengali the national language. Thus, language controversy along with the issue of the representation at the center caused a type of deadlock in constitution-making.

Religious Issue

1- In 1953, Orthodox parties took disadvantage of Obj: Resolution. They protested for two months and demanded to call Ahmadies as non-muslims.

a- When the second report was presented they ^{raised} ~~put~~ objection on "Hindu President" point. According to

Since Pakistan got independence in the light of Islam so the head of state must be a muslim. This opinion was included in the third report (Bogra Report) of the Basic Principles Committee.

Dominated Bureaucracy And Military

Bureaucrats were appointed to rule as Governors. Bureaucrats controlled the political process, enforced laws like the criminal procedure code and penal code which imposed serious restrictions on the political activities.

The Governor-General Mr. Gulam Muhammad blamed the Constituent Assembly of Pakistan, without any hesitation he dismissed elected prime ministers to make inroads to the power corridors.

Muhammad Tamizuddin Case

The Constituent Assembly was not happy with the ever-increasing role of the Governor-General and day-to-day affairs of the government. The CAP (Constituent Assembly

of Pakistan) amended the constitution and curtail his powers. Gulam Muhammad cut short his tour and immediately returned to Karachi. With the support of General Ayub Khan he rejected the draft and dissolved the Constituent Assembly on October 24, 1954.

Moulvi Tamizuddin, the president of the dissolved CAP filed a writ in the Sindh Chief Court against the action of Governor General. On February 9, 1955 the court gave a verdict in favor of Moulvi Tamizuddin however, the Chief Justice of the Federal Court, Justice^{M.} Munir assured that the decision of dissolving CAP was according to the doctrine of necessity.