

## Navigating Religious and Political Crossroads: The Evolution of Pakistan's Constitutional Landscape Toward an Islamic Republic



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**Abstract:** *This article delves to Pakistan's constitutional history, highlighting the 1956 constitution's making as a turning point in the incorporation of Islamic principles into the political system of Pakistan. The Objectives Resolution (1949) was incorporated into the constitution, which was proclaimed an Islamic Republic and had provisions that were in consonance with the Islamic principles. The constitution was adopted on March 23, 1956. However, the debates over the Islamic nature of the state uncovered persistent doctrinal disagreements between modernists and ulema. Even after the constitution was adopted, the unsolved differences persisted influencing the subsequent political discourse. This historical investigation sheds light on the sophisticated relationships between politics and religion in Pakistan and highlights the continued hurdles in creating a cohesive vision for an Islamic state.*

**Keywords:** Pakistan, Religion, Politics, Pakistan, Constitution, Islamic Principles, Islamic State

### The Emergence of Muslim Nationalism in India

Muslims first interacted with India in 633 AD, during the reign of Hazrat Umar, the second caliph of Islam. Initially arriving as traders and settling along the Calcutta coast, their formal rule began in 712 AD during the Umayyad period when Muhammad bin Qasim defeated Raja Dahir, the ruler of Debul. This Muslim rule endured for centuries until the mid-19th century. The culmination of this era was marked by the failure of the War of Independence in 1857, signaling the formal end of Muslim rule. The subsequent independence movement, which persisted in various forms until 1947, witnessed the significant event of the Pakistan movement.

Muslim leaders recognized the peril their religion faced without political authority. In India, Hindus and Muslims, as the two major communities, often experienced a zero-sum dynamic where the success of one implied the failure of the other, leading to deep-seated opposition (Hussain, 2010).

Within the Muslim community, divergent responses emerged in reaction to the establishment of British rule in India. The ulema, representing one school of thought, harbored antagonism towards British rule, viewing them as a non-Muslim power occupying India. On the other side, Muslims led by Sir Sayed Ahmad Khan took a different approach, advocating for reforms within the

Muslim community and promoting cooperation with the British Empire.

Sir Sayed Ahmad Khan opposed the Indian National Congress and cautioned Muslims against aligning with the party. This stance eventually led to the formation of the Muslim League in 1906. Consequently, Sir Sayed is often credited as the father of the Pakistan Movement. His perspective was rooted in the belief that Muslims and Hindus could not share political power equally in India. According to him, it was necessary for one community to dominate the other, and the notion of them coexisting on equal terms was neither achievable nor plausible (Hussain, 2010).

Following the contentious partition of Bengal in 1905, which favored Muslims in East Bengal but faced opposition from Hindus who boycotted British goods, Muslims recognized the need to assert their political interests. In 1906, they engaged with the Viceroy of India, demanding a separate electorate system at all governmental levels, reserved quotas in government services, and other constitutional safeguards.

This political awakening among Muslims led to the establishment of the All India Muslim League in Dacca on December 30, 1906. With Hindus outnumbering Muslims in united India by a ratio of three to one, the founders of the Muslim League were apprehensive about the implications of this significant demographic difference in a democratic government where the rule of the majority prevails. The Muslim League rejected the Congress claim of representing all Indians, including Muslims, asserting that only they had the mandate to represent the Muslim community. (Hussain, 2010).

During this period, a liberal faction emerged among Muslim leaders, led by Muhammad Ali Jinnah, which opposed the policy of unquestioning loyalty to the British regime. This group strongly advocated for collaboration between the Muslim League and Congress to work towards constitutional reforms. This collaborative effort resulted in the Congress-League Lucknow Pact in 1916, marking the first and last significant political understanding

between the two parties.

The landscape of Muslim politics underwent a significant shift with the outbreak of World War I. Concerned about the potential dismemberment of Turkey, which was the center of the Caliphate, Muslim League leaders initiated the Khilafat Movement to prevent such an occurrence. Simultaneously, the ulema organized politically and laid the foundation of Jamiat-ul-ulema-i-Hind in 1920. Aligning themselves with Congress, they supported the demand for self-rule for India and the broader policy towards the British government (Hussain, 2010).

During this period, there was a temporary phase of Hindu-Muslim unity, reaching its zenith during the Khilafat Movement. This unity, referred to as the "short honeymoon of Hindu-Muslim unity" by I. H. Qurishi, was a brief but significant period marked by collaboration between Hindus and Muslims, particularly in their joint support for the Khilafat Movement. (Qurishi, 1965) The period of Hindu-Muslim unity came to an end, and tensions resurfaced, leading to riots in the 1920s. Hindus initiated organizations like Sanghats to train individuals in martial arts against Muslims and Shuddhi to convert Muslims to Hinduism. In response, Muslims organized movements such as Tanzeem and Tablighi.

Amid these developments, Allama Muhammad Iqbal introduced the concept of a separate state for Indian Muslims during his Allahabad address in 1930. Although the idea did not gain immediate widespread support, the Congress's electoral victory in the 1937 provincial elections made Muslims recognize the importance of Iqbal's concept of a separate state. Eventually, on March 23, 1940, the Muslim League passed the famous Lahore Resolution.

The Muslim League effectively rallied Muslims around the demand for Pakistan, invoking memories of a glorious past and promising a hopeful future. Under the inspiring leadership of Quaid-e-Azam (the Great Leader), the Muslim League successfully achieved the creation of Pakistan at the end of the British Raj in India. This accomplishment was made possible due to

the growing demand for an Islamic state (Chengappa, 2001).

After the creation of Pakistan, two distinct schools of thought emerged. On one hand were the modernists who aimed to discard the Two Nation Theory, which was cherished by the other school of thought, the religious class. The modernists sought to establish a secular state, but they faced challenges because, in the pre-partition era, they had mobilized Muslims for an independent state in the name of religion.

However, post-independence, a majority of Pakistanis outright rejected the idea of a secular state and vehemently demanded an Islamic system. In response to this popular sentiment, the leaders of Pakistan reluctantly acceded to the demand and promoted the concept of an Islamic state, despite the earlier attempts to move towards secularism. Subsequently, religion became a central element in the process of nation-building in Pakistan. (Chengappa, 2001).

During the Pakistan movement, a segment of the religious class initially opposed the idea of Pakistan. However, once the creation of Pakistan became a reality, they did not cease their efforts but redirected their focus toward advocating for an Islamic Pakistan. Their new objective was to declare that sovereignty belonged to Almighty Allah rather than the people, emphasizing the establishment of an Islamic governance system in the newly formed nation. This shift reflected the ongoing influence of religious considerations in shaping the ideological direction of Pakistan (Chengappa, 2001).

### **Interaction of Religion and Politics in Pakistan**

The interplay between religion and politics in Pakistan is distinctive. Islam played a fundamental role in shaping the concept of a separate state for Indian Muslims in 1930. From its inception, Islam has continuously influenced the political landscape in Pakistan in various ways. It has consistently been a crucial factor in the country's constitutional, political, and socio-economic development. Regardless of the nature of the government, whether leaning towards liberalism or Islamism, Islam has consistently

occupied a central position in the state ideology, evident in both rhetoric and policies.

Irrespective of the political regime in power, Islam has remained a key element in shaping Pakistan's identity and governance. Its role extends beyond mere symbolism, often influencing legislative decisions and public policies. Looking ahead, it is likely that Islam will continue to play a pivotal role in shaping the future political dynamics of Pakistan, contributing to the country's evolving political landscape in diverse ways. (Ahmad, 2011).

In the beginning, it was imperative to channelize the Muslims of India for the struggle of independence in the name of Islam. After the demand for separate state in 1940, the League's leaders intensively used the name of Islam. According to Binder:

*"Islamic government, Islamic State and Islamic Constitution were the slogans of the last years of the empire and the first days of independence, but no one was quite sure what they meant." (Binder, 1963)*

The Muslims of India, however, were not united in their support for the demand for Pakistan. There were Muslim nationalists who supported the Muslim League in the Pakistan Movement. On the other hand, there were nationalist Muslims who strongly opposed the idea of separation. Additionally, the majority of ulema (Islamic scholars) were not in favor of Pakistan. They believed that a common territory, not religion, should be the basis for nationhood. In contrast, Western-educated leaders and Muslim nationalists held the opinion that a common religion was sufficient for the formation of nationhood. The diversity of opinions within the Muslim community reflected the complexity of the political landscape during the struggle for independence and the subsequent creation of Pakistan (Shah, N.D).

Despite their initial opposition to the idea of a separate state for Muslims in India, the religious class did not hesitate to migrate to Pakistan and promptly worked to transform the newly formed nation into an Islamic state. They believed that once the state was established, the next step should involve aligning laws with the

injunctions of Islam.

The first Constituent Assembly of Pakistan was established under the Indian Independence Act of 1947, with the primary task of framing a constitution for Pakistan. Among the various challenges faced by the Constituent Assembly in constitution-making, one significant issue was determining the role Islam should play in the political structure of Pakistan. Reaching a consensus was not easy due to conflicting opinions from Islamists and modernists.

Quaid-e-Azam's (Great Leader) views on the matter were not unequivocal, leading to different interpretations by both schools of thought. Modernists believed that Jinnah wanted a Muslim state with a separation of religion from politics, while the ulema interpreted his stance as advocating for the establishment of an Islamic state. This divergence of interpretations reflected the complexity of the discussions surrounding the role of Islam in the governance of Pakistan. (Mehdi, 1994).

The main argument put forth by the modernists was that Quaid-i-Azam had declared on August 11, 1947, in his speech to the inaugural session of the Constituent Assembly that religion was a private affair and had nothing to do with state affairs. This statement was often cited to support the modernist perspective, suggesting that Jinnah intended for a separation between religion and the affairs of the state in the new nation of Pakistan. He said:

*"In course of time all these angularities of the majority and the minority community will vanish... You are free, you are free to go to your temples, you are free to go to your mosques or to any other places of worship in the State of Pakistan. You may belong to any religion or caste or creed—that has nothing to do with the business of the State... We should keep that in front of us as our ideal and you will find that in course of time Hindus would cease to be Hindus and Muslims would cease to be Muslims, not in the religious sense, because that is personal faith of each individual, but in the political sense as citizens of the State"* (National Assembly of Pakistan, n.d.).

If we delve deeper into this speech, there is

nothing inherently un-Islamic or, in other words, secular. Quaid-i-Azam stated here precisely what the Holy Prophet stated 14 centuries ago. Bolitho (1954) mentions in his book, "Jinnah the Creator of Pakistan,"

*"Words were his own, but the idea was of the Prophet which he gave thirteen centuries back saying, 'All men are equal in the eyes of God. And your lives and your properties are all sacred. In no case should you attack each other's life and property. Today I trample under my feet all distinctions of cast, colour and nationality (Bolitho, 1954).'"*

So, the speech which Quaid-i-Azam delivered on that day in no way denotes secularism. Shah says about this speech of Quaid-i-Azam,

*"Some people believe this speech of Jinnah reflects his secular vision, which has no logical ground. After Jinnah's failure in creating Hindu-Muslim unity in predominantly Hindu India, returned to establish a predominantly Muslim state of Pakistan. He was witness to the feelings of insecurity and sufferings of Muslims minority in the predominantly Hindu India, he did not want Hindus to suffer the same fate in the predominantly Muslim state of Pakistan that he had just created. That's why Jinnah probably chosen the words for his speech quite carefully because he did not want to offend the non-Muslims of Pakistan escalate any anti-Hindu sentiments among Muslims. Therefore, his speech does not indicate necessarily future secular state in Pakistan. He emphasizes the importance of communal synchronization for the peace and advancement of the state (Shah, N.D)."*

Jinnah's vision did not align with the establishment of a theocratic state. On July 9, 1947, during a press conference in New Delhi, when a reporter asked Jinnah whether Pakistan would be a secular or theocratic state, Jinnah's response indicated a lack of understanding of the term "theocratic state." The reporter explained that in a theocratic state, believers of a specific religion (in this case, Islam) are granted full citizenship status, while non-Muslims would not

fall into that category. In response, Jinnah stated that democracy is an integral part of Islam. This exchange highlights Jinnah's inclination toward a democratic framework rather than a theocratic one in the governance of Pakistan (Shah, N.D). In February 1948, Jinnah emphasized that Pakistan, despite being a predominantly Muslim-majority state, was not a theocratic state. He stated that Pakistan did not commit any wrong and that Islam commands its followers to tolerate other religions.

Modernists argue that Jinnah's speech opposed the ulema who sought to impose Islamic principles on society. Politicians aimed to limit the role of ulema in national politics and state affairs, which required restricting the Islamic aspect of the constitution. The ulema faced challenges due to divisions among different schools of thought, while the modernists presented a more unified front. During the early years of Pakistan's creation, clashes between modernists and ulema occurred on three occasions: first in 1949 with the adoption of the Objectives Resolution, in 1953 during the anti-Ahmadiyya Movement, and during the formulation of the first constitution.

Maulana Shabbir Ahmad Usmani, shortly after Pakistan's creation, demanded that the Islamic state should operate under the golden principles of Islam. He argued that only those who believe in these principles could lead the state, while non-Muslims could be accommodated in administrative roles but should not be involved in formulating the state's general policy on safety and integrity.

Maulana Shabbir Ahmad Usmani praised the passage of the Objectives Resolution, considering it a positive step towards Islamizing the state. He emphasized that, in Islam, religion and politics are interconnected. Responding to objections that Jinnah wanted Pakistan to be a secular state, Maulana Shabbir Ahmad cited Jinnah's vision, stating that the Quaid-e-Azam envisioned Pakistan as an Islamic state. He further highlighted the fundamental principles of an Islamic constitution, emphasizing that the authority of an Islamic state is derived from delegated power, where sovereignty belongs to Allah, and humans act as His deputies on earth.

They fulfill their duties along with other religious obligations as outlined by Allah. (Shafique, 1987).

Maulana Maudoodi, while supporting the stance of the ulema, laid down the four principles in his speech on February 18, 1948. Those principles were:

1. *We the Muslims of Pakistan have faith in the supreme power of Allah and that the state will be governed as His agent.*
2. *The fundamental law of the land is sharia which has been revealed to us by the prophet of Allah, Mohammad PBUH.*
3. *All the existing laws which are in contradiction to the teachings of Islam, must be brought in consonance with the injunctions of Islam no such law will be legislated in future.*
4. *The state cannot trespass the limits imposed by Islam during exercising its authority (Maudoodi, 1980).*
5. *Maulana Maudoodi unequivocally rejected the concept of Western democracy, viewing it as the antithesis of the Islamic system. He considered Western democracy to be a system where sovereignty lies in the hands of the people, with lawmaking as their prerogative. In contrast, he argued that in Islam, sovereignty belongs to Almighty God, and lawmaking is the sole responsibility of the sovereign, which, in the case of an Islamic state, is God Himself.*
6. *Maulana Maudoodi's definition of the Islamic state is theo-democracy, a term he used to describe a state not ruled by a hierarchy of priests but by the entire Muslim community, acting in accordance with Islamic commands. In this model, the governance of the state is guided by the principles of Islam, and the community collectively participates in decision-making processes based on Islamic teachings. (Rosenthal, 1965).*

### **The Objectives Resolution**

The ulema (Islamic scholars) and traditionalists

launched a campaign to impose Islamic law so forcefully that the government felt compelled to yield. As a result, they introduced Sharia law and an Islamic constitution to garner the support of both the ulema and the general populace. The pressure exerted by the ulema and traditionalists played a significant role in shaping the legal and constitutional landscape to align more closely with Islamic principles. (Shah, Religion and Politics in Pakistan from 1927-1988, 1994). On March 12, 1949, the Objectives Resolution was passed, a milestone that Liaquat Ali Khan, the Prime Minister of Pakistan at the time, considered the second most significant event after the creation of Pakistan. The Objectives Resolution outlined the guiding principles for the future constitution of Pakistan, emphasizing the establishment of an Islamic state and ensuring that laws align with the teachings of Islam. This resolution played a crucial role in shaping the ideological foundation of Pakistan (Choudhry, 1969). Indeed, the Objectives Resolution has had a lasting impact on Pakistan's constitutional framework. It has served as the preamble for all three constitutions of Pakistan. Furthermore, in 1985, during the legal and constitutional reforms undertaken by General Zia-ul-Haq, the substantive part of the Objectives Resolution was incorporated into the operative part of the constitution. This integration reinforced the foundational principles outlined in the Objectives Resolution within the constitutional fabric of Pakistan.

Objectives Resolution declares, sovereignty belongs to God Almighty over the entire universe. It also declared Islam as the *raison d'être* of Pakistan. the main points of the objectives resolution are democratic tenants, social justice, freedom, equality and tolerance as articulated by Islam. The Objectives Resolution brought a compromise among the different classes. The ulema and the modernists both were happy. In the words of Binder:

*"It was not a constitution. It was merely a deposit on account to be accepted as an indication of good faith. The Objectives Resolution fulfilled the minimum requirements of an Islamic state and the competent ulema should be included in*

*different committees for the purpose of the constitution making."* (Binder, 1963)

Binder's observation suggests that the language used in the Objectives Resolution was intentionally vague. According to Binder, Maulana Maudoodi's four demands and those held by the ulema were accepted in principle but were worded vaguely to avoid offending the modern concept of Islam. Notably, terms like "Shariat" (Islamic law) or "Islamic State" were not explicitly used in the Objectives Resolution. However, the inclusion of the phrase "Sovereignty belongs to God Almighty" satisfied the ulema, as it incorporated their demand for the establishment of an Islamic state. Despite this satisfaction, figures like Shabbir Ahmad Usmani, a prominent cleric and leader of the Jamiat-ul-Ulema-e-Islam, believed that only those who adhered to the principles of Islam should be entrusted with running the affairs of the state. This nuanced approach reflects the attempt to strike a delicate balance between diverse ideological perspectives within the country (Binder, 1963).

The Objectives Resolution of 1949 indeed played a pivotal role in providing broad outlines and guidance for the future constitution of Pakistan. When presenting it in the Assembly, Liaquat Ali Khan emphasized the importance of having a clear understanding of the type of constitution the members wished to create before embarking on the process. This resolution set the stage for the constitutional framework of Pakistan, articulating the foundational principles and values that would shape the nation's governance and legal structure (Choudhry, 1969).

The Objectives Resolution of 1949 holds a significant place in the constitutional history of Pakistan as it helped settle disputes, particularly regarding whether the state should be Islamic or secular. It defined the concept of an Islamic state and marked a victory for the religious class. Liaquat Ali Khan, while speaking on the occasion, emphasized that freedom provided people with the opportunity to order their lives according to their principles and ideals. The fear that a secular state might not allow them to follow their principles led to the demand for

their own state, grounded in those principles. The authority given to the people mitigated the risk of theocracy, as Islam itself does not support theocratic rule.

Following the adoption of the Objectives Resolution, the Basic Principles Committee (BPC) was formed to propose the future constitution in line with the guidelines of the Objectives Resolution. The committee presented provisional reports in 1950 and the final report in 1952, both of which were rejected for various reasons, with religious aspects being a major factor. The third report, accepted in 1954, unfortunately, was not implemented.

The BPC suggested a five-member advisory board of ulema to guide the government in matters related to Islam. Although the ulema were discontent with their advisory role and sought more powers to influence the implementation or enforcement of laws, the modernists were cautious about theocratic governance. The BPC report successfully redirected traditionalists' demands away from the idea that Sharia and the parliament would enjoy sovereignty. Instead, the ulema's role was confined to an advisory status, allowing politicians to disregard their opinions on specific matters.

The BPC report also proposed a separate electorate with reserved seats for minorities, a major demand of Muslims in united India. However, minorities, particularly the Hindu minority in Pakistan, neither demanded nor supported this system.

#### **Board of Ta'alimat-e-Islamia**

On the same day when the Objectives Resolution was passed, various committees were formed to make proposals for the future constitution. One of these committees was the Board of Ta'alimat-e-Islamia. Comprising ulema, the purpose of this board was to provide proposals for incorporating the Islamic character into the constitution. The inclusion of such committees highlighted the concerted effort to involve religious scholars and experts in shaping the constitutional framework of Pakistan with a focus on Islamic principles. (Shah, Religion and Politics in Pakistan from 1927-1988, 1994).

The recommendations put forth by the Board of Ta'alimat-e-Islamia were focused on key aspects of the constitutional structure. The first recommendation pertained to the Head of State, proposing that the head should be a Muslim with absolute authority. The second recommendation concerned the Executive in general, suggesting that the state should be governed by an elite of Muslims elected by Muslim electorates based on their piety. The third recommendation was related to the legislature, proposing that a committee of ulema would determine which laws are repugnant to Islam and therefore invalid. This recommendation reflected a somewhat traditional medieval concept of Caliphate, albeit with some minor modifications to suit modern times.

However, the ulema, in making these recommendations, seemed to be more rooted in fantasy and historical ideals, perhaps not fully acknowledging the practical challenges of implementing a centuries-old system with all its benefits and advantages. Consequently, many of their recommendations were deemed impractical and were rejected. Nevertheless, these recommendations had implications on the incorporation of Islamic provisions into the constitutions of Pakistan. The interaction between these traditionalist perspectives and the evolving constitutional framework continued to shape the trajectory of Pakistan's governance system (Shah, Religion and Politics in Pakistan from 1927-1988, 1994).

#### **Traditionalists' Response to Basic Principles Committee's First Report**

In September 1950, the Basic Principles Committee (BPC) presented its report to the Constituent Assembly. Liaquat Ali Khan, the Prime Minister at that time, presented the report, where the Objectives Resolution was placed as the preamble. However, other Islamic provisions in the report were not sufficient to satisfy the ulema. The report largely followed a Western pattern and exhibited close similarities with the Government of India Act 1935. This approach left the ulema deeply disappointed, as they felt that the Muslim League was playing games and questioned their sincerity in crafting an Islamic constitution. The ulema vehemently rejected this

report, signaling the ongoing challenges in reconciling diverse perspectives within the process of constitution-making in Pakistan (Iqbal, 1986).

Mufti Muhammad Shafi, a prominent Islamic scholar, expressed dissatisfaction with the report, highlighting that it was silent on any provision for the positive requirements of Islam. According to him, many contents of the report were deemed contradictory to Islam and the Objectives Resolution. The ulema, however, did not immediately oppose the report for being non-Islamic. It took them almost two months, during which the discussion concluded in the assembly, and the decision was made to postpone further deliberations. During this extended period, the ulema gradually became more vocal in their opposition to the report.

According to Binder, politicians, the Board of Ta'alimat-e-Islamia, and Jamaat-e-Islami were instrumental in arousing the ulema against the report. The East Bengal branch of JUI (Jamaat-e-Ulema-e-Islam) was the first group of ulema to meet on October 5, 1950, and protest against the interim report. This marked the beginning of increased opposition from the ulema, reflecting the complex dynamics and tensions surrounding the constitutional process in Pakistan (Binder, 1963).

The government, in response to the growing discontent and opposition from the ulema, claimed that the delay in presenting the report was due to the thorough consultation with Islamic scholars to ensure the consideration of every detail. However, the Constituent Assembly yielded to the mounting pressure and suspended the debate on November 22, 1950. This decision reflected the complexities and challenges in finding a consensus on the nature of the constitutional framework, particularly in balancing modern and traditional perspectives within the diverse society of Pakistan (Rosenthal, 1965).

Many Islamic groups, especially the Jama'at-i-Islami, initiated a nationwide agitation against the recommendations, labeling them as anti-Islam. They organized public rallies and unequivocally rejected the report. Additionally,

other controversies emerged, including issues related to representation, the national language, distribution of powers, and assets. The government, under mounting pressure, was compelled to withdraw the report.

Unfortunately, Maulana Shabbir Ahmad Usmani passed away before this report was presented. Maulana Maudoodi and Sayyed Suliman Nadvi traveled across Pakistan, urging people to reject the report. The Board of Talimat-e-Islamia sought to publish its report but couldn't do so because, according to the rules, the committee was bound to keep its reports secret. As a result, the government refused to allow its publication. These events underscored the intense opposition and controversies surrounding the constitutional-making process, reflecting the complex interplay of religious and political forces in shaping Pakistan's governance structure (Rosenthal, 1965).

To navigate the contentious situation and avoid a direct confrontation between the government and the ulema, the discussion on the report was deferred. Liaquat Ali Khan, recognizing the potential challenges in obtaining unanimous proposals from the ulema, asked them to submit their unanimous applications on the Islamic Constitution. However, Liaquat Ali Khan was skeptical about the ulema's ability to provide a unanimous set of proposals and sought to create confusion among them.

Taking the call seriously, the ulema convened in Karachi in 1951 and presented their famous twenty-two points formula. This formula reflected the ulema's collective stance on the features and principles they deemed essential for an Islamic constitution. The complexities and divergent perspectives within this constitutional discourse underscored the intricate relationship between religious and political forces in shaping Pakistan's governance structure (Rafiq, 2001).

### **Ulema's 22 Points Formula**

As mentioned above the ulema were worried about the delay in the constitution making. In 1951 they convened a meeting in Karachi. The meeting was attended by 31 ulema of all schools of thoughts. They prepared a report of twenty-



two points called the 'Basic Principles of Islamic State'.

Following are the names ulema who were present in meeting:

1. Maulana Sayyed Suliman Nadvi, 2. Maulana Sayyed Abula'ala Mudoodi (Amir Jama'at-e-Islami Pakistan) 3. Maulana Khair Muhammad Jalandhri (Multan), 4. Maulana Mufti Muhammad Shafi Sahib, 5. Maulana Muhammad Jafar, (Mujtahid member Ta'alimat-e-Islamia Board), 6. Maulana Zaffar Ahmad Ansari, member Ta'alimat-e-Islamia Board, 7. Maulana Muhammad Athar, member Ta'alimat-e-Islamia Board, 8. Maulana Badri Alam Meerthi, 9. Maulana Muhammad Yusaf Binori, 10. Maulana Muhammad Idrees Kandhlvi, 11. Maulana Abdul Hamid Badiwani (president Jamiyyat-ul-Ulam-e-Pakistan), 12. Maulana Haji Muhammad Ameen (Amir Jama'at-i-Najia Sarhad), 13. Maulana Muhammad Ismail (Jama'at-e-Ahl-Hadith), 14. Maulana Dawood Ghaznvi (Jama'at-e-Ahl-Hadith), 15. Maulana Ihtisham-ul-Haq Karachi, 16. Pir Hashim Jan Sindh, 17. Maulana Shamsul Haq Afghani, 18. Maulana Shamsul Haq Fareedabadi (Jamiyyat-ul-Ulama-e-Islam East Pakistan), 19. Maulana Athar Ali (Jamiyyat-ul-Ulama-e-Islam East Pakistan), 20. Pir Sahib Sarsena Sahib (East Pakistan), 21. Maulana Raghieb Hassan, 22. Maulana Hafiz Kifayat Hussain (Mujtahid member Ta'alimat-e-Islamia Board), 23. Maulana Mufti Muhammad Sadiq Karachi, 24. Maulana Ahmad Ali Lahori, 25. Maulana Muhammad Ali Jalandhri, 26. Maulana Mufti Muhammad Hassan Amratsari, 27. Maulana Muhammad Salih (East Pakistan), 28. Maulana Habib-ur-Rahman (East Pakistan), 29. Maulana Badrul Islam (Tandowala Yarkhan Sindh) 30. Pir sahib Muhammad Amin al-hasant, pri of manki sharif, 31. Qadi Abdus Samad Sarbazi, Kalat State) (Islam & Iqbal, 2013).

In this meeting the following points were presented:

1. Allah is the owner of ultimate Sovereignty over the whole universe

2. Quran and Sunnah as the basis of entire laws. Existing laws considered in contrast with the Sharia to be repealed or suitably changed to adapt to Sharia.
3. Islamic ideals and principles, not geographical, racial or linguistic concepts should be the bases of the state.
4. The state must order practices mentioned by the Quran and Sunnah and not to allow those forbidden in Islam. during reviving established Islamic customs, practices and law, beliefs of different sects should be considered.
5. Bonds of unity and solidarity with the Muslim world strengthen by the state.
6. The state accepts responsibility of fulfilling the basic needs of those citizens who are unable to earn their own livelihood irrespective of religious, race or creed.
7. Fundamental rights will be granted to all citizen allowed by Shariah, such as protection of life and property, freedom of religion, worship, freedom of speech, association and movement, freedom to work and to enjoy equality of opportunity etc.
8. No citizen would be denied the fundamental rights but under law of the land and no court of law would sentence any lawful member of the state without providing him with a chance for defense.
9. Recognized sects of Muslim were to enjoy full religious liberty within legal boundaries. They had the right to give education to their followers in their own method. Their personal law was to be governed by the laws of their own sect and the law courts where to respect these laws while dealing with member of the sect.
10. Similar freedom was to be enjoyed by non-Muslim citizens of the state in respect of their religion, education, and culture. Law courts were to respect their religious law and custom while dealing with cases involving their personal law.

11. All agreements and treaties entered with non-Muslim subjects of the state were to be honored in accordance with Shariah. Non-Muslim citizens were guaranteed fundamental rights on par with Muslim citizens.
12. The Head of State was to be a Muslim male Citizen of the State.
13. All responsibility for running the state was vested in the Head of State who could delegate his authority or part thereof to any individual or institution in the State.
14. The Government constituted by the head of the State was to be of a consultative and not dictatorial character. The Head of State was required to discharge his responsibility in consultation with the elected representatives of the people.
15. The Head of the State had no right to rule the country abrogating the whole or part of the Constitution.
16. The institution responsible for electing the head of the State had the power also to remove or suspend him.
17. The Head of the State has no immunity and was subject to law like any other citizen.
18. Accountability to the law of the land was equally applicable to all members of Government and functionaries of the State.
19. The judiciary was to be independent of the executive.
20. Propagation of such ideas and ideologies as are considered contrary to the fundamentals of Islam was to be prohibited.
21. The state was to be of a unitary nature. Different regional, racial, tribal or linguistic areas consist of the territory of the state were not to enjoy the right of secession.
22. No interpretation of the constitution which was repugnant to the Holy Quran and Sunnah was to consider valid (Islam &

Iqbal, 2013).

The principles formulated by the ulema in the 'Basic Principles of Islamic State' or the 22 Points Formula were indeed a reaction to what they perceived as secular and modernist policies of the government. This effort aimed to counteract what they considered un-Islamic views and assert an Islamic character for the state. Despite the diverse interpretations of Islamic laws among the various schools of thought, the ulema were able to come together, accommodating their differences, to create a set of principles for an Islamic State.

The success of the ulema in gaining consensus on certain points, such as the Head of State being Muslim and the recognition of the ulema as an institution, demonstrated their ability to find common ground despite their divisions. These points received unanimous support from the Basic Principles Committee (BPC). However, when the sub-committee presented its final report on December 22, 1952, the ulema strongly criticized it. The Pakistan Times, in its editorial on January 11, 1953, also criticized the draft, characterizing it as a mixture of divergent constitutional formulas that failed to provide a suitable setup for the specific conditions of Pakistan.

In their Karachi meeting in 1953, the ulema presented their proposed amendments, expressing disappointment with the report. They demanded that the constitution be framed in the light of Quranic injunctions and insisted that the teachings of Islam should not be considered merely contributing factors but should form the foundation of the constitution. This highlighted the ongoing struggle between different perspectives in shaping the constitutional framework of Pakistan. (Islam & Iqbal, 2013).

### **The Constitution of 1956**

The Second Constituent Assembly, under the leadership of Ch. Muhammad Ali, succeeded in formulating a constitution for Pakistan after a strenuous struggle lasting for at least nine and a half years. The first constitution was promulgated on March 23, 1956, officially declaring Pakistan as the Islamic Republic. The Objectives Resolution was adopted as the

preamble, and a chapter titled 'Directive Principles of State Policy' was incorporated into the constitution. Several Islamic provisions were included, emphasizing the state's commitment to enabling Muslim citizens of Pakistan to live their lives, both individually and collectively, in accordance with Islamic teachings.

The constitution stipulated that the Head of State must be a Muslim citizen and not less than 40 years of age. This marked a significant milestone in the constitutional development of Pakistan, reflecting the integration of Islamic principles into the governance structure of the newly formed republic. (Shah, Religion and Politics in Pakistan from 1927-1988, 1994). The 1956 constitution outlined several key Islamic provisions, including the state's responsibility for prohibiting prostitution, gambling, and the consumption of alcohol. The commitment to the early elimination of *riba* (usury or interest) was also articulated. Additionally, the constitution established the Islamic Research Institute, tasked with assisting in the reconstruction of Muslim society on true Islamic lines. It was emphasized that no legislation contrary to the teachings of Islam would be allowed, and all current laws would be brought in accordance with Islamic teachings.

The constitution received acceptance from almost all groups, with minor reservations. The ulema, in particular, were pleased to have what they considered an Islamic Constitution finally in place. However, the ongoing discussion on the Islamic character of the state indicated that the fundamental religious disagreements were far from being resolved. Both the ulema and modernists faced challenges in bridging their differences, impacting the public perception of religion as a source of unity and harmony. The need for a shared vision to eliminate these differences became evident in the subsequent events and discussions on the role of Islam in the state.

### Conclusion

The constitutional development in Pakistan, characterized by the making of the 1956 constitution, stands as a crucial moment in the nation's history. This very important

constitution, enforced on March 23, 1956, officially declared Pakistan as an Islamic Republic, emphasizing the integration of key Islamic provisions. The incorporation of the Objectives Resolution in the preamble, coupled with pledges to prohibit vices such as prostitution and gambling, signified a deliberate attempt to introduce Islamic values into the structure of the governance. Though the constitution was widely accepted, yet it failed to resolve the inherent tensions between religious and political forces conclusively, notably exemplified by the nuanced discussions on the Islamic character of the state. The continued disagreement between ulema and modernists accentuated the complex challenge of delineating a unified vision for an Islamic state. As Pakistan navigated this constitutional crossroads, the unresolved religious differences continued to shape the evolving relationship between Islam and politics in the nation.

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