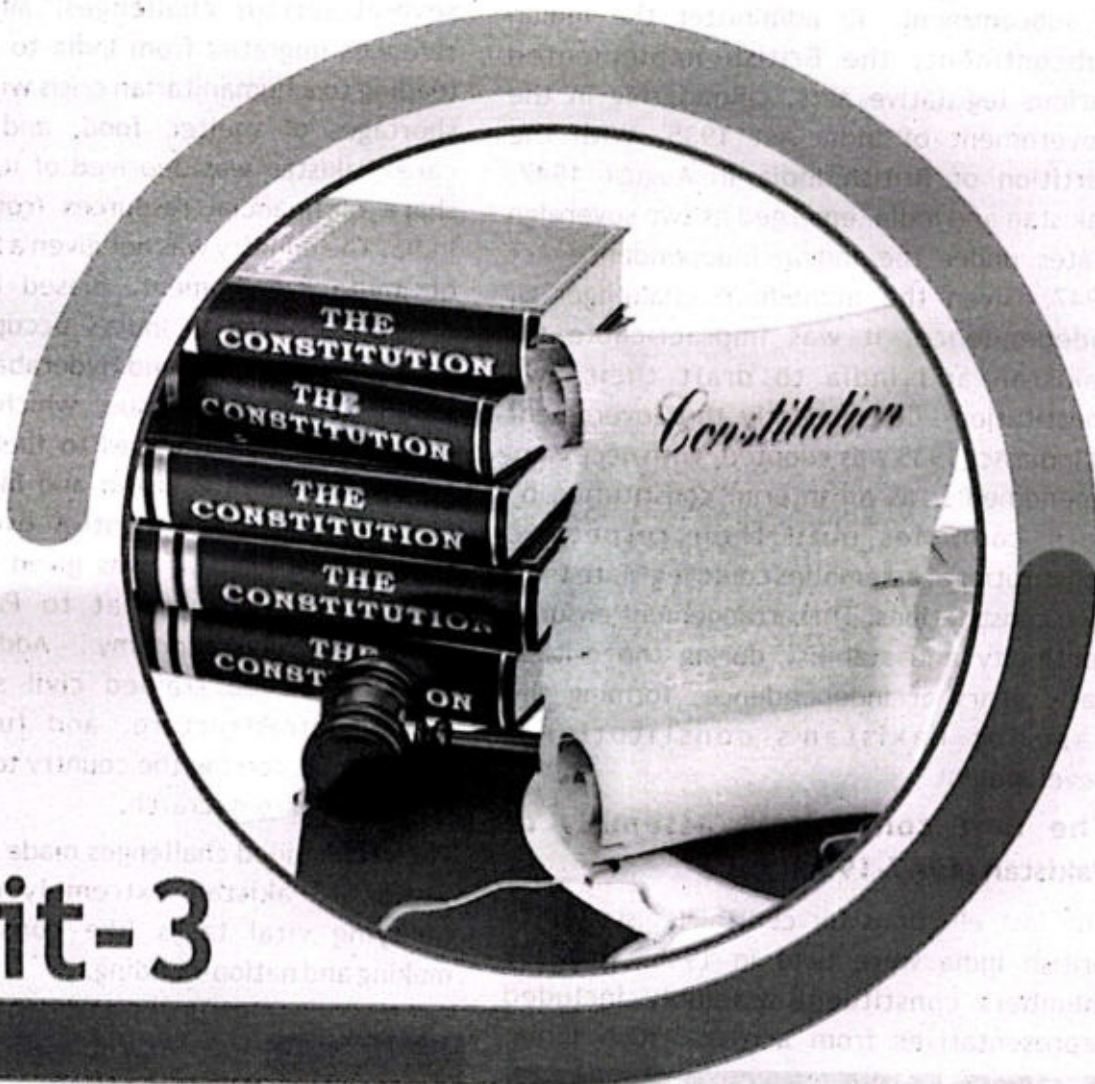


## Section 2

# Constitution of Pakistan



## Unit-3

# Constitutional Development

In this unit the students will be able to:

- Examine the historical context of the constitution to trace the origins of constitutional evolution in Pakistan.
- Identify salient features of Objectives Resolution in order to signify its impact on constitutional development in Pakistan.
- Outline the salient features of the Constitutions of 1956, 1962, and 1973.
- Compare and contrast the constitutions of 1956 and 1962, particularly with reference to the Islamic features included in both constitutions.
- Evaluate the reasons for the failure of the constitutions of 1956 and 1962.

## Historical context of constitutional development

The roots of Pakistan's constitutional history can be traced back to the British colonial era in subcontinent. To administer the Indian Subcontinent, the British implemented various legislative acts, culminating in the Government of India Act 1935. With the partition of British India in August 1947, Pakistan and India, emerged as two sovereign states under the Indian Independence Act 1947. Given the immediate challenges of independence, it was impracticable for Pakistan and India to draft their own constitutions. Consequently, the Government of India Act 1935 was adopted, with necessary amendments, as an interim constitution by both countries until their respective constitutional assemblies could legislate their own constitutions. This arrangement ensured continuity and stability during the critical early years of independence, forming the basis of Pakistan's constitutional development.

### The first constituent assembly of Pakistan (1947-1954)

The last elections for central legislature of British India were held in 1945. This 389 members constituent assembly included representatives from across British India,



*Quaid-e-Azam addressing first constituent Assembly of Pakistan*

At its creation in 1947, Pakistan faced several serious challenges. Millions of refugees migrated from India to Pakistan, leading to a humanitarian crisis with severe shortages of shelter, food, and medical care. Pakistan was deprived of its rightful share of financial resources from British India. The country was not given a fair share of military equipment. Biased boundary division resulted in India's occupation of states like Junagadh and Hyderabad. It also led to the Kashmir issue, which remains unresolved and continues to fuel ongoing tension between Pakistan and India. As a result of partition, control over rivers flowing into Pakistan was given to India, posing a lasting threat to Pakistan's agriculture and economy. Additionally, Pakistan lacked trained civil servants, proper infrastructure, and functional institutions, forcing the country to start its governance from scratch.

These combined challenges made the early years of Pakistan extremely difficult, delaying vital tasks like constitution-making and nation-building.

#### Activity

Using a map of British India from 1947:

1. Highlight the areas handed over to India due to the unjust boundary division.
2. Discuss how the partition impacted Pakistan's access to water resources, as Pakistan became dependent on rivers flowing from India. Explain how this limited access to water created significant challenges for Pakistan's agriculture, which was vital for the country's economy.

elected through a limited franchise system. At partition of British India in 1947, the assembly had to be split into two to cater to the legislative needs of the two newly born states. Sixty-nine members, representing the Muslim-majority areas that became the part of Pakistan were designated as members of First Constituent Assembly of Pakistan. Later this number was increased to 79 to give representation to Baluchistan, the Tribal Areas and the newly acceded

states of Bahawalpur and Khairpur.

Regional representation in the assembly was as below.

|                |    |             |    |
|----------------|----|-------------|----|
| East Bengal    | 44 | Baluchistan | 01 |
| Punjab         | 23 | Bahawalpur  | 01 |
| Sind           | 05 | Khairpur    | 01 |
| NWFP (Now KPK) | 03 | FATA        | 01 |

The Constituent Assembly of Pakistan met for its inaugural session on August 10, 1947, in Karachi. The next day, Quaid-e-Azam Mohammad Ali Jinnah was elected as President of the assembly. In his presidential address he set the direction for the Constituent Assembly's work in drafting a constitution, that would reflect the aspirations and values of the nation of Pakistan. The assembly was charged with two responsibilities.

- To frame a constitution for Pakistan that would govern the newly independent nation according to its unique needs and aspirations
- To act as the Federal Legislature.

#### DO YOU KNOW?

The Constituent Assembly of Pakistan could amend the independence act by a simple majority and pass laws; moreover, no law could be made without its approval. Every bill that was passed needed to be signed by the President of the Constituent Assembly of Pakistan.

Do you think the government used this power to suppress its opponents and introduce non-democratic traditions?

### The progress of the first constitution assembly

The progress of the first constitutional assembly can be summed up as follows.

#### Objectives Resolution

The first and most important achievement was passage of Objectives Resolution on March 12, 1949. This resolution laid down the foundational principles of the future constitution.

#### Basic Principles Committee

- The committee was established to define the fundamental principles that would shape Pakistan's constitution. This committee further constituted three sub committees. This committee presented its first report in September 1950. The report was criticized widely due

3. In groups, take on the role of Pakistan's leaders in 1947. One group will focus on managing the refugee crisis, another on establishing the government, and a third on handling boundary disputes like Kashmir. Discuss your strategies and approach to addressing these early challenges.

to ambiguity on Islamic provisions, concerns over minority rights, imbalanced representation of East and West Pakistan in legislative bodies, and the excessive powers granted to the central government.

- The final report was presented in December 1952 but the Constituent Assembly did not pass it.

### **Muhammad Ali Bogra Formula**

To resolve political deadlock in Pakistan due to regional and linguistic tensions, Muhammad Ali Bogra, the then *Prime Minister* proposed a bicameral legislature aiming to balance representation between East and West Pakistan.

After extensive debates and amendments, the Bogra Formula gained acceptance as a potential solution to constitutional issues. However, the Constituent Assembly was on the verge of resolving its remaining issues when Governor-General Ghulam Muhammad abruptly dissolved it on October 24, 1954. He alleged that the Assembly had failed in its fundamental task of drafting the constitution over an extended period. Additionally, he criticized the Assembly, claiming it had lost its representative identity over time.

### **Expand Your Horizon**

#### **Let us explore and deepen our understanding**

Code of Hammurabi was created and promulgated in First Babylonia Dynasty in 1754 BCE in ancient Mesopotamia (Modern day Iraq). It is considered one of the earliest known written legal codes. Explore the significance of Code of Hammurabi to lay foundations for subsequent legal systems and development of written law.

### **Issues Causing Delays in Constitution Making**

After creation of Pakistan the most important challenge was to draft a constitution reflecting the needs and aspirations of newly born ideological state. The task could not be accomplished as long as 1956. The following are the main causes of delay in constitution making.

#### **Immediate Challenges**

With its creation, Pakistan had to face more pressing issues that required immediate attention. These included an influx of refugees, canal water dispute, Kashmir conflict, India's denial in giving Pakistan's share of military and financial assets etc. These pressing challenges diverted resources and attention, contributing to significant delays in the drafting process.

#### **Death of Quaid - e - Azam**

Quaid-e-Azam outlined Pakistan's future constitution in his address to the first Constituent Assembly on August 11, 1947. However, his death on September 11, 1948, ended his direct role in the process. His leadership and stature could have helped resolve constitutional challenges if he had lived longer.

#### **Deadlock in Power Division and Representation**

The "Objectives Resolution" set the federal basis for the future constitution, but disputes over power division between the central and provincial governments caused problems. East Pakistan wanted maximum provincial autonomy, while many politicians from West Pakistan wanted a strong central government. There were also issues regarding equal representation between East and West Pakistan.

## **Form of Government**

Parliamentary system of government, more suitable for Pakistan, required a strong democratic culture. However, political parties and institutions lacked the necessary training. Doubts arose about the system's stability, and many in West Pakistan favored a strong presidential system. This confusion contributed to delays in constitution-making.

## **Linguistic Issue**

At independence, it was announced that Urdu would be the official language of Pakistan. However, linguistic riots in East Pakistan led to demands for Bengali to be an official language. This issue was resolved later by adopting both Urdu and Bengali as official languages.

## **Political factors**

Attitude of some politicians about language issues, choosing between parliamentary or federal systems, secular or theocratic governance, and regionalism resulted in extending the constitution making process.

## **Legislature's Interest**

After the death of Quaid-e-Azam Mohammad Ali Jinnah, there was a lack of legislative interest in the activities of the Constituent Assembly. In its seven years, the assembly met only for 116 days, with attendance ranging from 37 to 56 members out of a total of 76.

## **Objectives Resolution**

The Muslims of the Indian Subcontinent struggled hard for a separate Muslim state based on the Two-Nation Theory. This struggle culminated in the creation of Pakistan, a state with strong ideological foundations. After its creation, there was a pressing demand to establish Pakistan as an Islamic Republic. Additionally, the Constituent Assembly needed a guiding framework to craft the country's constitution.

To address these needs, Mr. Liaquat Ali Khan, then the Prime Minister, presented a resolution on the "Aims and Objectives of the Constitution" in the assembly on March 7, 1949. This resolution, commonly known as the Objectives Resolution (*Qaraardad-e-Maqasid*), was debated for five days and was passed by the assembly on March 12, 1949.

## **Key Points of the Objectives Resolution**

Here are the key points of the Objectives Resolution.

### **Sovereignty belongs to Allah**

Sovereignty over the entire universe belongs to Allah Almighty alone. The authority delegated to the State of Pakistan, through its people, to be exercised within the limits prescribed by Him, is a sacred trust.

### **Islamic System of Governance**

The state will exercise its power and authority through the elected representatives of the people, ensuring that Islamic democracy is practiced in the country.

### **Adherence to Islamic Principles**

The Islamic principles of democracy, freedom, equality, tolerance, and social justice shall be fully adhered to.

## **Islamic Way of Life**

Muslims shall be enabled to live their individual and collective lives in accordance with the teachings of the Quran and Sunnah.

## **Rights of Minorities**

Adequate provisions shall be made for minorities to freely profess, propagate, and practice their religions, and to preserve and develop their cultures and traditions.

## **Federal System of Government**

Pakistan shall be a federation where provinces will enjoy autonomy within constitutional limits.

## **Fundamental Rights**

Fundamental rights including freedom, equality, property, expression of thought, belief, worship, and association shall be guaranteed to all citizens of Pakistan.

## **Freedom of Judiciary**

The independence of the Judiciary shall be fully secured.

## **Sovereignty of the state and its territorial integrity**

The sovereignty of the state and its territorial integrity will be safeguarded, ensuring that the country's authority and borders are protected from internal and external threats.

## **Aspiration for National Prosperity and Global Contribution**

To enable the people of Pakistan to prosper and achieve their rightful and honored place among the nations of the world, making their full contribution towards international peace, progress, and the happiness of humanity.

## **Importance of Objectives Resolution**

The Objectives Resolution is a crucial document in Pakistan's constitutional history. This resolution laid down the foundational principles on which Pakistan's future constitution would be based. Its significance lies in several key aspects:

- **Foundation of Constitutional Development:** It served as the cornerstone for Pakistan's constitutional development, shaping subsequent constitutions in 1956, 1962, and 1973.
- **Preamble to Constitutions:** The Objectives Resolution was adopted as a preamble in the constitutions of 1956, 1962, and 1973, providing a guiding framework for governance.
- **Incorporation into the Constitution:** In 1985, it became an integral part of the Constitution of Pakistan, highlighting its enduring importance.
- **Symbol of National Identity:** It represents Pakistan's commitment to balancing Islamic values with democratic governance, striving for national prosperity, peace, and progress.

Constitution is a body of fundamental principles or established precedents according to which a state or established organization is acknowledged to be governed.

## Second Constitutional Assembly of Pakistan

The first Constituent Assembly was dissolved by Governor-General Ghulam Muhammad on October 24, 1954. This decision was challenged in the Sindh Chief Court, which restored the assembly. However, the Federal Court of Pakistan later overturned this decision thereby affirming that the Governor-General's decision to dissolve the assembly was correct. The court unanimously declared that the task of framing a constitution had to be performed by a Constituent Assembly.

Under these circumstances, Governor-General Ghulam Muhammad called for the formation of a new Constituent Assembly. This second Constituent Assembly, consisting of 80 members, was indirectly elected in May 1955 by the provincial legislatures of East and West Pakistan. It met for the first time on July 7, 1955. The assembly passed the Validation of Laws Act of 1955 and unified West Pakistan into One Unit. Building on the work of the first assembly, the finalized draft of constitution was presented in Constituent Assembly by Prime Minister Chaudhry Muhammad Ali on January 9, 1956. It was approved by the assembly on February 29, 1956. After approval by the Governor-General, the constitution was implemented on March 23, 1956. This marked a significant milestone as Pakistan formally adopted its first constitution nine years after its creation.

## Constitution of 1956

The 1956 Constitution of Pakistan comprised 234 articles, divided into 13 parts, with 6 schedules.

### Islamic Provisions

To reflect the country's identity as a homeland for Muslims and to align its governance with Islamic principles, Islamic provisions were incorporated in the constitution. These provisions aimed to ensure that laws were consistent with the moral and ethical teachings of Islam, promoting social justice, equality, and welfare. These provisions are outlined below.

1. **Objectives Resolution:** Objectives Resolution was included as preamble of the constitution. It emphasized the sovereignty of Allah, democracy, freedom, equality, tolerance, and social justice as per Islamic teachings.
2. **Name of the Country:** The name of the country was adopted as "Islamic Republic of Pakistan".
3. **Head of State:** The head of state (President) had to be a Muslim.
4. **Islamic Law:** No law would be passed against the teachings of the Quran and Sunnah. The President was responsible for ensuring that laws conformed to Islamic principles.
5. **Promotion of Islamic Way of Life:** The state was tasked with promoting the observance of Islamic principles. Measures were to be taken for the teaching of the Quran and Islamic studies.
6. **Protection of Minorities:** The constitution guaranteed the protection of the rights of religious minorities.
7. **Social and Economic Justice:** The state was required to promote social and economic justice as outlined in Islamic teachings.
8. **Laws Consistent with Islam:** All existing laws were to be brought in conformity with the

injunctions of Islam as laid down in the Quran and Sunnah.

9. **Promotion of Islamic Education:** Steps would be taken to enable Muslims to understand the Quran and Islam, with promotion of Arabic language.
10. **Elimination of Riba:** Riba will be eliminated from the country as soon as possible.

### Other Key Features

1. **Written and Flexible constitution:** The constitution was written and flexible in nature. It could be amended with two third (2/3 rd.) majority.
2. **Federal Structure:** The Constitution provided a federal form of government with three legislative lists—Federal (33 items), Provincial (94 items), and Concurrent (19 items). Federal laws took precedence over provincial laws in concurrent matters.
3. **Parliamentary System:** It established a parliamentary system with a unicameral legislature, the National Assembly, consisting of 300 members elected on the principle of parity between East and West Pakistan.
4. **Executive Authority:** The President, a Muslim citizen of at least 40 years, would be the head of the state whereas the Prime Minister would be head of the government. President held significant executive powers, including appointing the Prime Minister, who needed to secure a vote of confidence from the National Assembly.
5. **Direct Elections:** The constitution provided for direct elections for central (National Assembly) and provincial legislature. The president was to be elected by the members of National and provincial assemblies. Citizens at least 21 years old were given right to vote.
6. **Independent Judiciary:** The Constitution ensured the independence of the judiciary, with the Supreme Court at the top. The Chief Justice acted as a mediator in conflicts between federal and provincial governments.



*Iskander Mirza signing the 1956 Constitution*

7. **Fundamental Rights:** The constitution guaranteed fundamental rights of citizens of Pakistan. These included freedom of speech, movement, religion and equality before law.
8. **National Language:** Both Urdu and Bengali were declared state languages, while English was to remain an official language. After 10 years, the president was to constitute a commission to make recommendations for replacement of English.
9. **Provincial Structure:** The provincial structure was similar to that of the centre. There were 300 members in both provincial assemblies. Ten additional seats were reserved for women.

The 1956 Constitution of Pakistan, developed after nearly nine years of struggle, lasted only 2 years and 7 months. President Iskander Mirza abrogated it in October 1958. Political instability, disagreements over power sharing, and tensions over religious and cultural differences led to its short tenure. Despite this, it laid groundwork for future constitutional developments. It influenced debates on federalism, representation, and Islam's role in governance, echoing in later reforms.

### Expand Your Horizon

Let us explore to level up our understanding.

Here are some constitution-related terms. Explore these terms through internet search and explain their use to your classmates:

☐ Act, Bill, Clause, Provision, Statute, Ordinance, Resolution, Jurisdiction

## Constitution of 1962

After assuming power as Chief Martial Law Administrator on October 27, 1958, General Muhammad Ayub Khan appointed a commission chaired by former Chief Justice Muhammad Shahabuddin to draft a new constitution. The commission included members from both East and West Pakistan. They submitted the report on May 6, 1961, which was thoroughly reviewed by Ayub Khan and his Cabinet. In January 1962, the Cabinet approved the final text of the constitution. General Muhammad Ayub Khan officially promulgated it on March 1, 1962. The new constitution came into effect on June 8, 1962, establishing a presidential system of governance in Pakistan.

### Islamic Provisions of 1962 Constitution

1. **Objectives Resolution:** Objectives Resolution was included as preamble of the constitution. It emphasized that sovereignty belongs to Almighty Allah. The Muslims have been entrusted the powers by Allah to be exercised as a sacred trust within limits fixed by Him.
2. **Name of Country:** Deviating from the 1956 Constitution, this constitution initially named Pakistan as the Republic of Pakistan. After protest by the public, it was renamed as Islamic Republic of Pakistan.



#### Note For Teachers:

- Facilitate students to understand the concept of each term through credible sources.
- Provide examples of how these terms are applied in legal or governmental settings.

3. **Promotion of Islamic Principles:** Steps were to be taken to enable Muslims in Pakistan to organize their individual and collective lives according to the fundamental principles and basic concepts of Islam.
4. **Islamic Compatibility of Laws:** No law shall be made that contradicts the teachings and requirements of Islam as stated in the Qur'an and Sunnah. Existing laws must be aligned with the Qur'an and Sunnah.
5. **Eligibility of President:** Under this constitution, it was compulsory for a president to be Muslim.
6. **Compulsory Teaching of Qura'n and Islam:** Education of Holy Qura'n and Islam was mandatory to Muslims.
7. **Organization of Zakat, Waqf, and Masajid:** The constitution mandated that the state would properly manage the institutions of Zakat, Waqf and Masajid.
8. **Elimination of non-Islamic practices:** All those practices which were contrary to Islamic teaching such as gambling, prostitution, and intimidation, would be eliminated from the society.
9. **Islamic Advisory Council:** The 1962 Constitution proposed an Advisory Council of Islamic Ideology. This council was to guide the legislature to ensure laws are aligned with Islamic principles. It was also intended to suggest ways for Muslims in Pakistan to live according to Islamic teachings.
10. **Islamic Research Institute:** The institute would be established to conduct Islamic research and to help in rebuilding Muslim society based on true Islamic principles.

### Other Key Features

1. **Written Constitution:** The constitution was in written form containing 250 articles organized into 12 parts with 3 schedules.
2. **Rigid Constitution:** The constitution was rigid and could only be amended by at least a two-thirds majority of the parliament, and then only with the President's authentication.
3. **Federal System:** A federal system was introduced in the country. It consisted of a central government and two provincial governments comprising East and West Pakistan. The center had the authority to intervene in the provincial matters if considered necessary.
4. **Presidential Form of Government:** Unlike the constitution of 1956, it was presidential with all the executive powers resting with the president. He was the constitutional head of government and state.
5. **Unicameral Legislature:** The 1962 Constitution established a unicameral legislature called the National Assembly. Initially, the assembly had 156 members, which later increased to 218 and then to 313. Members were elected by an electoral college of Basic Democrats having equal representation for both the East and West wings of Pakistan. Some seats were reserved for women. The National Assembly was exclusively empowered to legislate for the central subjects.
6. **Provincial Governments:** The 1962 Constitution established two provincial governments, each headed by a governor. The governors had powers similar to those of the President at the federal level. They were authorized to appoint provincial ministers with the approval

of President.

7. **Provincial Legislature:** Each province had its own legislature, initially consisting of 150 members, later increased to 218 members.
8. **Powers of President:** The President had to be a Muslim and serve a 5-year term. He could issue ordinances and veto laws passed by the National Assembly, which could only be overridden by a two-thirds majority of the Assembly. However, the President could not dissolve the Assembly without ending their own term. The President was granted extensive emergency powers, which allowed him to operate without much constraint in times of crisis.
9. **Indirect Elections:** The 1962 Constitution introduced an indirect method of election where primary voters elected Basic Democrats. The 80,000 Basic Democrats, in turn, had the responsibility to elect representatives to higher positions, such as the President and federal and provincial legislative assemblies. This system aimed to ensure representation through a hierarchical electoral process rather than direct public voting.
10. **Independence of Judiciary:** According to this constitution, the judiciary was kept independent. All the judges of the High courts had to be selected and appointed by the president with the advice of the chief justice. But the president was not bound to the recommendation of the Chief Justice. The court had the power of judicial review over executive actions.
11. **Fundamental Rights:** The constitution guaranteed the basic human rights for all the citizens of Pakistan without any discrimination of caste, creed, and color. Familiar civil rights were also granted.
12. **National Language:** Urdu and Bengali were recognized as National Languages.
13. **Referendum:** The constitution of 1962 introduced a new institution of referendum.

The 1962 Constitution of Pakistan aimed to centralize power through Basic Democracy and indirect elections. However, its acceptance and implementation faced challenges, particularly from critics advocating for provincial autonomy. Additionally, there were concerns about the legitimacy of the Basic Democracy system. It was viewed as manipulating electoral outcomes rather than ensuring genuine representation. These issues contributed to widespread dissatisfaction and political unrest, ultimately impacting the constitution's acceptance and effectiveness. It resulted in abrogation of the constitution in 1969.

## The Constitution of 1973

After widespread unrest, President Ayub Khan resigned on March 25, 1969. General Agha Muhammad Yahya Khan, the Commander-in-Chief, took over and imposed martial law abolishing the 1962 constitution. Yahya Khan organized national level general elections in December 1970. Awami League with Mujibur Rahman from East Pakistan and Pakistan People's Party under leadership of Zulfikar Ali Bhutto from West Pakistan won the majority.

However, disagreements arose over how to transfer power between East and West Pakistan. This deadlock led to political and civil unrest, worsening the situation. India's intervention in support of East Pakistan resulted in the Indo-Pak war of 1971. As a result, East Pakistan separated and became Bangladesh on December 16, 1971. In the aftermath, General Yahya Khan handed over power to Zulfikar Ali Bhutto on December 20, 1971.

Bhutto introduced an interim constitution on April 12, 1972. He formed a 25-member committee to draft a permanent constitution, including representatives from all political parties that had won the 1970 elections. The draft constitution was submitted to the National Assembly and approved on April 10, 1973. This led to Pakistan's first consensual constitution, officially promulgated on August 14, 1973, and still the country is being ruled by this constitution. This new constitution aimed to create a stable and democratic governance framework, addressing past issues of instability and lack of representation.

### **Islamic Provisions of the 1973 Constitution**

The 1973 Constitution of Pakistan is notable for its strong emphasis on the Islamic character of the state. It reflects the country's commitment to incorporating Islamic principles into its legal and governance frameworks. This constitution was designed to ensure that the laws and policies of Pakistan align with the teachings of Islam, making it a key feature of the nation's identity. Below are the Islamic provisions outlined in the constitution.

1. **Objectives Resolution as preamble:** Objectives Resolution was included as preamble of the constitution. In 1985 it was opted as active part of the constitution. It emphasizes that sovereignty belongs to Almighty Allah. It asserts that humans, as Allah's representatives or caliphs, exercise this authority as a sacred responsibility, adhering strictly to the limits prescribed by Him.
2. **Name of the Country:** Pakistan is declared an Islamic Republic.
3. **State Religion:** The constitution declares Islam as official religion of Pakistan.
4. **Definition of Muslim:** The constitution defined a Muslim for the first time. According to the constitution, a Muslim is a person who believes in oneness of Allah and in the absolute and unqualified finality of the Prophethood (Khatme Nabuwwat) of Hazrat Muhammad Rasulullah ﷺ, and does not believe in, or recognize as a prophet or religious reformer, any person who claimed or claims to be a prophet, in any sense of the word or of any description whatsoever, after Hazrat Muhammad Rasulullah ﷺ.
5. **President and Prime Minister to be Muslim:** The constitution declared that both the President and the Prime Minister must be Muslim. A non-Muslim cannot qualify for these positions.
6. **Implementation of Islamic Laws:** All existing laws shall be brought in conformity with the injunctions of Islam as laid down in the Qur'an and Sunnah. No law shall be enacted that is repugnant to teachings of Islam.
7. **Teaching of Qura'n and Islam:** Teaching of Qura'n and Islamiat will be compulsory in educational institutions.
8. **Organization of Zakat, Waqf, and Masajid:** The constitution mandated that the state would properly manage the institutions of Zakat, Waqf, and Masajid.
9. **Establishment of Council of Islamic Ideology:** The Council of Islamic Ideology would be established to guide legislative bodies in making laws in accordance with Islamic teachings. It would be responsible for adapting all existing laws in an Islamic shape and examining whether any law in the country contradicts the Qura'n and Sunnah, to declare it null and void.
10. **Promotion of Islamic Principles:** Steps were to be taken to enable Muslims in Pakistan to

organize their individual and collective lives according to the fundamental principles and basic concepts of Islam.

11. **Federal Shariah Court:** Established under the 1973 Constitution, the Federal Shariah Court ensures that all laws in Pakistan conform to Islamic principles derived from the Qura'n and Sunnah. It has the authority to review existing laws and can declare them null and void if they are found to be inconsistent with Islamic teachings.
12. **Qazi Courts:** These are lower courts that operate at the district level and adjudicate matters related to personal law for Muslims based on Islamic jurisprudence. They handle cases such as marriage, divorce, inheritance, and other family matters according to Islamic law.
13. **Elimination of Usury:** To eliminate the evil of usury the government will initiate measures.
14. **Unity of Islamic World:** Under the 1973 Constitution, the Government of Pakistan is mandated to foster friendly relations with Islamic countries, aiming to promote brotherhood and unity in the spirit of Islam.

### **Other Key Features**

1. **Structure of the constitution:** The Constitution of 1973 is written and detailed. It has 280 articles classified into 12 chapters and 7 schedules.
2. **Federal System:** According to the constitution, Pakistan shall be a federation where the units or the provinces shall be autonomous.
3. **Form of Government:** The constitution introduced parliamentary form of government where prime minister shall be the head of the government at centre and president shall be the head of the state. Chief minister will be head of provincial government.
4. **Bicameral System:** The constitution of 1973 introduced bicameral system in the country called Majlis-e-Shura consisting of two houses Senate (upper house) and National assembly (lower house). The National Assembly is directly elected by the people on the basis of one man one vote for a term of 5 years. The senate is to be elected by the members of the National Assembly and concerned provincial assembly on the basis of proportional representation.
5. **Direct Elections:** The constitution introduced method of direct elections for national as well as provincial assemblies.
6. **Independence of Judiciary:** The constitution emphasizes the establishment of an independent judiciary, ensuring job security for judges. They are appointed by the President and can only be removed from office upon the recommendation of the Supreme Judicial Council.
7. **Referendum:** The constitution authorizes the president to hold referendum on any national issue.
8. **Rule of Law:** The 1973 constitution establishes rule of law in the country.
9. **High Treason:** According to the constitution, the act of abrogation or suspension of the constitution has been declared as act of high treason.
10. **National Language:** The national language of Pakistan is Urdu. Arrangements shall be

made for its use in official and other purposes within fifteen years from the commencing day. Until such arrangements are made, the English language may be used for official purposes. Regional languages are also protected under the Constitution.

**11. Single Citizenship:** The Constitution established the principle of single citizenship. According to this principle the rights and responsibilities of citizens are determined by the federal constitution only. Thus, people throughout Pakistan are citizens of Pakistan.

**12. Pakistan to be a Welfare State:** The Constitution envisions the spirit of a welfare state. It provides that well-being of the people irrespective of their caste, gender, creed, race will be secured.

#### Learning Activity:

Construct a detailed timeline of constitutional developments in Pakistan, actively including significant milestones. Include date and short description of each milestone. Present your timeline through visual aids.

### Causes of failure of 1956 Constitution envisions

The following are main causes of failure of 1956 Constitution.

- Pakistan's socio-political environment was complex, with distinct linguistic and cultural differences between East and West Pakistan. To address governance challenges, all provinces of West Pakistan were merged into a single unit, aiming to reduce regional prejudices. However, this move failed and sparked protests.
- The electoral system caused a deadlock in Pakistan. Some political parties and NAP supported a joint electorate, while others wanted a separate electorate. This conflict destabilized the political system, leading to the abrogation of the 1956 Constitution and the imposition of martial law.
- The 1956 Constitution introduced a unicameral legislature. However, for a successful federation, a bicameral system is usually necessary.
- People demanded general elections promised by the president, but these promises were never kept. This unfulfilled promise led to public unrest and contributed to the failure of the 1956 Constitution.
- The head of state interfered excessively in the country's affairs, leading to rapid political changes and a demand for a new constitution.
- Political conflict between the head of state and head of government led to political chaos. This anarchy resulted in the constitution being abrogated or suspended.
- The power struggle and military interference led to the constitution's abrogation and the failure of democracy in Pakistan.



#### Note For Teachers:

After creation of the timeline by students, lead a focused discussion to investigate and analyze the challenges encountered during the development of each constitution. Encourage students to critically examine issues such as regional disparities, political instability, and the impact of military interventions.

## Causes of failure of 1962 Constitution

- The primary reason for the failure of the 1962 Constitution was its lack of popularity among the masses. It did not reflect the true aspirations of the people and was perceived as a one-man show, lacking broad-based support and legitimacy.
- The 1962 Constitution was crafted under military rule without broad-based consensus. This lack of input from diverse stakeholders weakened its legitimacy and contributed to its eventual failure.
- Fundamental rights were added to the constitution after the first amendment, but they were not effectively enforced. People did not enjoy these rights in practice, contributing to the failure of the constitution.
- West Pakistan was formed by merging four provinces into one unit, which reduced the autonomy of these provinces. This contributed to the failure of the constitution.
- The constitution lacked effective checks and balances, resulting in a weak distribution of power.
- The 1962 Constitution introduced a presidential form of government, which was disliked by people after experiencing it. They preferred a parliamentary system, contributing to the unpopularity of the constitution.
- The Convention Muslim League, led by Ayub Khan, dominated the assembly without significant opposition. This allowed the ruling party to shape the constitution according to its preferences without challenge.

## A Comparative Analysis of Constitutions of Pakistan

| Feature                          | 1956 Constitution                                                                     | 1962 Constitution                                                                  | 1973 Constitution                                                                  |
|----------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| Enforcement and validity         | It came into force on March 23, 1956 and remained valid till October 7, 1958.         | It came into force on June 8, 1962, and remained valid till March 25, 1969.        | It came into force on August 14, 1973 and valid till date.                         |
| Number of articles and schedules | It consisted of 234 articles and 06 schedules.                                        | It consisted of 250 articles and 3 schedules.                                      | It consisted of 280 articles and 7 schedules.                                      |
| List of subjects                 | It contained three lists of subjects i.e. federal, provincial and concurrent matters. | It contained two lists of subjects i.e. central, and provincial matters.           | It contains only one list of federal subjects.                                     |
| Principle of policy              | Certain principles of policy were introduced.                                         | Certain directive principles of policy for guidance of government were introduced. | Certain directive principles of policy for guidance of government were introduced. |
| Fundamental rights               | Rights provided to citizens of Pakistan                                               | Not initially but afterwards provided                                              | Guaranteed to all citizens of Pakistan                                             |
| Supreme Judicial Council         | There was no such institution.                                                        | The constitution introduced Supreme Judicial Council.                              | The constitution introduced Supreme Judicial Council.                              |

|                                   |                                                                                                                  |                                                                                                                                           |                                                                                                                                                                                     |
|-----------------------------------|------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Powers of PM and president</b> | The president was more powerful. He could choose PM from National Assembly, dismiss PM, government and assembly. | Office of PM did not exist. The president was all powerful with the authority to dismiss the national and provincial assemblies.          | All the powers rest with Prime minister elected by the National Assembly. The post of president is symbolic.                                                                        |
| <b>Form of government</b>         | Parliamentary form of govt.                                                                                      | Presidential form of govt.                                                                                                                | Parliamentary form of govt.                                                                                                                                                         |
| <b>Form of legislature</b>        | Unicameral legislature                                                                                           | Unicameral legislature called National Assembly                                                                                           | Bicameral consisting of Senate and National Assembly                                                                                                                                |
| <b>Mode of Election</b>           | Direct election                                                                                                  | Indirect election<br>Basic democrats would act as an electoral college for the election of president, national and provincial assemblies. | Both direct and indirect elections. People will vote for national and provincial assemblies. National and provincial assemblies will be electoral college for Senate and president. |
| <b>Referendum</b>                 | No concept of referendum was introduced.                                                                         | Concept of referendum was introduced.                                                                                                     | The president was given the authority to hold referendum on any issue.                                                                                                              |
| <b>National language</b>          | Urdu and Bengali                                                                                                 | Urdu and Bengali                                                                                                                          | Only Urdu will be the national language.                                                                                                                                            |
| <b>Objective Resolution</b>       | Included as preamble                                                                                             | Included as preamble                                                                                                                      | Initially included as preamble, later became active part of constitution.                                                                                                           |
| <b>Name of country</b>            | Islamic Republic of Pakistan                                                                                     | Islamic Republic of Pakistan                                                                                                              | Islamic Republic of Pakistan                                                                                                                                                        |
| <b>State religion</b>             | Did not mention Islam as official religion of the state.                                                         | Did not mention Islam as official religion of the state.                                                                                  | Islam was declared as official religion of the state.                                                                                                                               |
| <b>Definition of Muslim</b>       | There was no provision about definition of Muslim.                                                               | There was no provision about definition of Muslim.                                                                                        | Clearly defined a Muslim.                                                                                                                                                           |
| <b>Muslim as head of state</b>    | President will be a Muslim.                                                                                      | President will be a Muslim.                                                                                                               | Both the president and the prime minister would be Muslims.                                                                                                                         |
| <b>Islamic Law</b>                | No law will be enacted against teaching of Qur'an and Sunnah.                                                    | No law will be enacted against teaching of Qur'an and Sunnah.                                                                             | No law will be enacted against teaching of Qur'an and Sunnah.                                                                                                                       |

|                                   |                                                                   |                                                                   |                                                                   |
|-----------------------------------|-------------------------------------------------------------------|-------------------------------------------------------------------|-------------------------------------------------------------------|
| <b>Publication of Holy Qur'an</b> | There was no provision.                                           | There was no provision.                                           | Error free publication of Qur'an was established.                 |
| <b>Teaching of Islam</b>          | The teaching of Islam mandated by government.                     | The teaching of Islam mandated by government.                     | The teaching of Islam and Qur'an mandated by government.          |
| <b>Unity of Muslim World</b>      | There is provision for strengthening relations with Muslim World. | There is provision for strengthening relations with Muslim World. | There is provision for strengthening relations with Muslim World. |
| <b>Rights of minorities</b>       | Rights of minorities were established.                            | Rights of minorities were established.                            | Rights of minorities were guaranteed.                             |

### What I have Learned

- Pakistan's constitutional history began with the Government of India Act 1935, which served as an interim constitution after independence in 1947.
- The first Constituent Assembly of Pakistan, initially with 69 members later increased to 79, met on August 10, 1947, and was tasked with framing the constitution and acting as the Federal Legislature.
- The first Constituent Assembly of Pakistan made progress by approving the Objectives Resolution in 1949 and considering the Bogra Formula for resolving political deadlock.
- The challenges such as immediate national issues, controversies over power division, and linguistic tensions between East and West Pakistan delayed the constitution-making process significantly until its dissolution in 1954.
- The Objectives Resolution, passed in 1949, established foundational principles for Pakistan's future constitution based on Islamic ideals and democratic governance.
- The Objectives Resolution guaranteed fundamental rights, federalism, sovereignty, and protection of minorities, shaping subsequent constitutions in 1956, 1962, and 1973.
- The first Constituent Assembly was dissolved by Governor General Ghulam Muhammad in 1954.
- The second Constituent Assembly drafted and approved Pakistan's first constitution in 1956, uniting West Pakistan into One Unit and establishing a federal democratic republic.
- The 1956 Constitution of Pakistan was a written document with 234 articles, structured into 13 parts and 6 schedules, aiming to reflect the country's Islamic identity and principles.
- It established Pakistan as an Islamic Republic, mandated the President to be a Muslim, and ensured laws aligned with Islamic teachings from the Qur'an and Sunnah.
- Despite its comprehensive nature, the constitution was abrogated by General Muhammad Ayub Khan in 1958 due to political instability and disagreements over power-sharing.

- The 1962 Constitution of Pakistan, promulgated under General Muhammad Ayub Khan's regime, established a presidential system of governance and emphasized Islamic principles in state affairs.
- It included provisions ensuring that laws conformed to the Qura'n and Sunnah, mandated the President to be a Muslim, and introduced institutions like the Advisory Council of Islamic Ideology and the Islamic Research Institute.
- Despite its rigidity and detailed framework, the constitution faced criticism for centralizing power and using indirect elections through Basic Democracy, leading to its abrogation in 1969.
- The 1973 Constitution of Pakistan, enacted under Zulfikar Ali Bhutto's leadership, solidified Pakistan's identity as an Islamic Republic and aimed to establish a stable democratic framework.
- Constitution of 1973 incorporated Islamic provisions such as declaring Islam as the state religion, defining a Muslim, and ensuring all laws conform to Qur'anic teachings.

## Exercise

**Answer the following questions by choosing the best answer.**

- How did the inclusion of representatives from regions like Baluchistan, Tribal Areas, Bahawalpur, and Khairpur impact the Constituent Assembly of Pakistan?
  - It ensured a more inclusive and representative constitution-drafting process.
  - It complicated the legislative process due to increased regional conflicts.
  - It delayed the formation of the assembly due to logistical challenges.
  - It strengthened central authority by reducing regional autonomy.
- What is the significance of the Objectives Resolution in Pakistan's constitutional history?
  - It established Urdu as the national language.
  - It laid down foundational principles for Pakistan's future constitution.
  - It proposed a presidential system of governance.
  - It resolved the political issues.
- Which document served as a preamble in constitutions of Pakistan?
 

|                          |                      |
|--------------------------|----------------------|
| A) Lahore Resolution     | B) Two-Nation Theory |
| C) Objectives Resolution | D) Bogra Formula     |
- How was the Second Constituent Assembly of Pakistan formed?
  - Through direct elections by the people of East and West Pakistan
  - By appointment of members by the Governor-General
  - Indirectly elected by provincial legislatures of East and West Pakistan

- D) By a referendum among Pakistani citizens
5. **How did the Constituent Assembly react to the Bogra Formula before its dissolution?**
- A) It completely rejected the formula.  
B) It accepted the formula as a potential solution after debates and amendments.  
C) It passed the formula without amendments.  
D) It ignored the formula and proposed a new one.
6. **Why did Governor-General Ghulam Muhammad dissolve the first Constituent Assembly in 1954?**
- A) Due to disagreements over the national language  
B) Because it failed to draft a constitution after several years  
C) To overcome economic instability  
D) To consolidate power in East Pakistan
7. **All of the following were major challenges in the constitution-making process of Pakistan, except:**
- A) Power division between central and provincial governments  
B) Linguistic riots demanding Bengali as an official language  
C) Refugee influx and Kashmir conflict  
D) Implementation of a strong presidential system
8. **How were members of the National Assembly elected under the 1962 Constitution?**
- A) Direct election by the public  
B) Appointment by the President  
C) Indirect election through Basic Democrats  
D) Selection by provincial governors
9. **What was a key criticism of the electoral system introduced by the 1962 Constitution?**
- A) Lack of representation for minorities  
B) Manipulation of electoral outcomes  
C) Excessive decentralization of power  
D) Exclusion of women from voting rights
10. **According to the 1973 Constitution of Pakistan, who has the authority to ensure that all laws conform to Islamic teachings?**
- A) Prime Minister  
B) Islamic Ideology Council  
C) President  
D) Supreme Court

**Answer the following questions briefly.**

1. What is significance of the Objective Resolution in shaping the Constitutions of Pakistan?
2. What is role of the Islamic Ideology Council in Pakistan's legislative process under the 1973 constitution?

3. Why did Pakistan adopt Govt of India Act 1935 as interim constitution after independence?
4. How did the death of Quaid-e-Azam impact the progress of Pakistan's constitution-making process?
5. How did the Federal Court of Pakistan impact the fate of the first Constituent Assembly?
6. Compare the parliamentary system established under the 1956 Constitution with the current governance structure in Pakistan.
7. Describe the impact of the Basic Democracy system introduced under the 1962 Constitution on Pakistan's political landscape.
8. List the major reasons behind the abrogation of the 1962 Constitution.

**Answer the following questions in detail.**

1. Evaluate the role of regionalism and linguistic tensions in delaying the drafting of Pakistan's constitution.
2. Assess the strengths and weaknesses of the presidential system introduced by the 1962 Constitution of Pakistan, considering its impact on governance and political stability.
3. Analyze the impact of the Objectives Resolution on Pakistan's constitutional history, considering its influence on subsequent constitutions and the balance between Islamic principles and democratic governance.
4. Compare and contrast the 1962 and 1973 Constitutions of Pakistan, highlighting their approaches to federalism, representation, and the role of Islamic principles.

**Project work**

Rights of minorities have been fairly protected under 1973 constitutions.

- Conduct interviews /surveys to determine the satisfaction levels of the minorities in your locality regarding their rights protected under the 1973 Constitution of Pakistan.
- Analyze collected data to understand perceptions and experiences of minorities regarding constitutional rights protection.
- Present findings in the school magazine, newsletter, or social media account. Analyze data to highlight satisfaction levels and areas for improvement.

## Glossary

- **Constitution:** A set of fundamental principles or established precedents according to which a state or other organization is governed.
- **Islamic Provisions:** Specific clauses or articles in a constitution that align with principles and teachings of Islam.
- **Preamble:** Introduction to a formal document, such as a constitution, outlining its purpose and guiding principles.
- **Parliamentary System:** A system of government where the executive branch derives its legitimacy and authority from the legislature (parliament) and is accountable to it.
- **Unicameral:** Having a single legislative chamber or house.
- **legislature:** A body of government responsible for making laws.
- **Federal System:** A system of government where power is divided between a central authority and constituent political units (such as states or provinces).
- **Presidential System:** A system of government where the executive branch is separate from the legislature and headed by an elected president who serves as both head of state and head of government.
- **Judiciary:** The system of courts of law in a country; the branch of government that interprets and applies the law.
- **Fundamental Rights:** Rights inherent to all human beings, typically enshrined in a country's constitution or law, protecting individuals from infringement by the state or other entities.
- **Bicameral System:** A legislative system with two chambers or houses (e.g., a lower house and an upper house).
- **Referendum:** A direct vote by the electorate on a specific proposal or issue.
- **Constitutional Amendment:** A change or addition to a country's constitution.
- **Basic Democracy:** A local bodies system introduced in the 1962 Constitution