**Constitution-Making in Pakistan (1947-73) (Part I)**

[Dr Ghulam Nabi Kazi](https://dailytimes.com.pk/writer/dr-ghulam-nabi-kazi/)

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When Pakistan emerged as a Dominion of the British Commonwealth in mid-August 1947, its first and foremost priority should have been the development of a Constitution suited to the genius of its people. Unfortunately, that was not the case; it took us nearly nine years to approve our first constitution in March 1956 and to become a Republic, although subsequent developments were far more disillusioning. On the eve of the Golden Jubilee of the approval of the 1973 Constitution, let us explore the genesis of our troubles and discuss the circumstances and historical perspective in which the Constitution was developed and how it has benefitted us.

Following a consensus meeting with all the principal Indian leaders on Independence and the Partition on June 3, 1947, the Viceroy of India Lord Louis Mountbatten conveyed the entire plan to his government in London. Subsequently, on July 26, 1947, the first Constituent Assembly of Pakistan was notified with 69 members, which was later expanded to 79 members. Subsequently, Pakistan emerged on the world map in pursuance of the provisions of the Government of India Act, 1935 read with the Indian Independence Act, 1947 on August 15, 1947. The first session of Pakistan’s Constituent Assembly was held on August 10, 1947, and our Founder Muhammad Ali Jinnah was soon elected unanimously as its President and accorded the title of Quaid-i-Azam. On August 14, Lord Mountbatten flew to Karachi, participated in the Independence ceremonies and addressed the Assembly wishing Pakistan a long life, while he was inwardly working against it. At the stroke of the midnight hour the same night, Pakistan and India emerged as two independent Dominions in the British Commonwealth, Mr Jinnah took oath as the first Governor General of Pakistan on August 15, 1947, and worked far beyond his mandate. Mountbatten had wanted to continue as Governor General of both the new Dominions but while the Indians allowed him that courtesy, Mr Jinnah explicitly refused to allow such a position causing the former to lose his temper, which is documented. Thereafter, Mr Jinnah was always targeted by the Western media, however, due to Mountbatten’s duplicity – the worst of which was yet to come with the Radcliffe Award – and the state of his health, the Quaid-i-Azam chose to occupy this office himself for the remainder of his lifetime. Interestingly, when Lord Mountbatten asked him why he wanted that largely ceremonial office, he replied that in Pakistan he would be Governor General and the Prime Minister would do what he told him to do.

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Meanwhile, it was a foregone conclusion that the interim Finance Minister and some other colleagues whom Mr Jinnah had nominated for the Government of India in 1946 would be inducted into Pakistan’s first Cabinet headed by Nawabzada Liaquat Ali Khan. And so the plan worked – Mr Jinnah presided over Cabinet meetings, decided on many matters personally and instructed his government to implement those decisions. He was a hard taskmaster but was also conscious of his frail health.

The foremost task of the first Constituent Assembly was to frame a Constitution as per the country’s requirements and Joginder Nath Mandal was chosen for the task of coordinating the process in his capacity as Law Minister. Mandal and his Indian counterpart Dr B R Ambedkar had earlier established the Scheduled Castes Federation in Bengal to ameliorate a lot of the lower castes.

However, while Dr Ambedkar could provide a constitution for India by 1949 duly approved by the Assembly, Pakistan was nowhere close to it. It is hypothesized that the Prime Minister who was in the constituent assembly on a seat from East Bengal feared an election and deliberately delayed constitution making. In his very first speech on August 11, 1947, Mr Jinnah mitigated the apprehensions of the minorities and assured them of a level playing field in the affairs of Pakistan. However, his speech was censored by Secretary General Cabinet Chaudhry Muhammad Ali and after Mr Jinnah’s death in September 1948, Liaquat Ali Khan emerged as a powerful Prime Minister of Pakistan. On March 7, 1949, he introduced the Objectives Resolution in the assembly, which mainly related to Islamization in Pakistan and represented a preamble for all future constitutions. Despite strong criticism from the minorities, the Prime Minister secured the approval of the House on it combining religion with statecraft because Pakistan had been created on the basis of religion. This was only six months after Mr Jinnah’s passing away and conflicting with the principles enunciated by him for administering the new state. Meanwhile, the life of Mandal was made so miserable that he resigned, left Pakistan and returned to his untouchable status in India in 1950, citing social injustice and a biased attitude towards minorities as his main grievances. Another major crisis occurred on October 16, 1951, when Prime Minister Liaquat Ali Khan was assassinated in Rawalpindi.

While Jinnah was head and shoulders above his partymen, the same was true for Liaquat after the former’s death. With the departure of both Jinnah and Liaquat in a little over four years, the country fell into the hands of mediocrity, all claiming to be superior to one another. After consultations, Governor General Khawaja Nazimuddin stepped down as the Prime Minister on October 17, 1951, with Finance Minister Ghulam Muhammad elevated as the Governor General. Decision-making reverted again to the Governor General’s office, but this time, to an incumbent lacking in integrity and scruples. Just when the final draft of the Constitution was prepared in 1954, the Governor General set the clock back by dismissing the Prime Minister in 1953 and dissolving the assembly in 1954. Both Prime Minister Nazimuddin and Constituent Assembly Speaker Maulvi Tamizuddin Khan belonged to East Pakistan and thus, an ominous signal was sent to the majority province. But worse was to come. In collusion with the Chief Justice of the Federal Court Muhammad Munir, Ghulam Muhammad’s action was upheld enabling him to continue his shenanigans with the tacit support of General Ayub Khan, the Army Commander in Chief.

The second Constituent Assembly was created on May 28, 1955, with 80 Members, 40 each from East and West Pakistan. Although East Pakistan had 54 per cent of the population of Pakistan, all four provinces of the Western Wing were amalgamated into one province to create a deceptive parity between the two wings. In hindsight, this appears to be the raison d’etre for enabling the Constitution of Pakistan in 1956. Choudhry Muhammad Ali had moved from his civil service position of Secretary General to Finance Minister and was the Prime Minister at that time. The Federal Constitution of 1956 was very similar to the one introduced in 1973 and could have been promulgated years earlier having there been a will to do so. It was passed by the Assembly headed by Speaker Abdul Wahab Khan and Deputy Speaker (later Speaker and President) Fazal Elahi Chaudhry on February 29, 1956, and after receiving assent from the acting Governor General Iskander Mirza was enforced with effect from March 23, 1956 – our first Republic Day, transforming Pakistan from a British Dominion to an independent Islamic Republic. Unfortunately, the focus of authority shifted to the shrewd President despite constitutional provisions to the contrary.

(To Be Continued)

*The writer is a senior public health specialist in Pakistan and Editor-in-Chief of the Public Health Action journal of the International Union Against TB and Lung Disease.*