**A revolutionary article**

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It is surprising – or maybe not so surprising – that with so much discussion, debate and talk about the constitution by politicians, media and the judiciary, no one has talked much about the one article in the constitution which if implemented can change the destiny of the country.

All the fight, all the conflict, the whole focus on the constitution has always been in the context of power transfer, civil-military relations or, as now, about which political side is constitutionally right. All sides claim to be upholding the constitution; all sides claim to be the champions of the people’s mandate or democracy. Now, with the judiciary being politicized, it has become a mother of all messes in the history of Pakistan.

So, what is that clause? It is Article 38 clause (a) in Chapter 2 which reads as: The state shall “secure the wellbeing of the people, irrespective of sex, caste, creed or race, by raising their standard of living, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of general interest and by ensuring equitable adjustment of rights between employers and employees, and landlords and tenants.”

If this clause had been implemented fifty years ago, we could have avoided being in the clutches of elite capture now, which everyone laments about but no one seems to offer a solution for. We would have been living in a much more egalitarian society. Imagine if the major means of production – land, factories, large businesses, corporations, trade – were not controlled and monopolized by a few. Wealth would be more evenly distributed, small-and-medium businesses and entrepreneurs would be thriving and brain drain would decrease or stop altogether.

The level and incidence of poverty would have decreased, the state of education and healthcare much improved and the general standard of living elevated. Workers would be getting decent wages, overtime and social security benefits. Implementation of labour laws ensuring workplace safety would avoid senseless loss of life due to collapsed mines, fires in factories and other such calamities that are purely the result of negligence on the part of state functionaries and business owners. Workers wouldn’t be working like slaves under contract labour. Landlords would not be exploiting their farm workers economically, socially and politically.

Here I must comment that there is a need to make the language of the constitution more inclusive of women. However, imagine if the state had actually made an effort to eliminate all kinds of exploitation. There would be no bonded labour, child labour, human trafficking, abuse of house workers, women, minorities etc. Human dignity, which is violated everyday everywhere in this country, would be restored.

We keep forgetting that the constitution is not just a document allocating and dividing powers between various institutions and office bearers, it is also a social contact between state and citizens and is very explicit about the state’s responsibilities towards citizens and their rights. It is important to mention some of those clauses here. Article 38(b) says the state should “provide for all citizens, within available resources of the country, facilities for work and adequate livelihood with reasonable rest and leisure”. How thoughtful. The framers of the constitution realized not just the importance of work but also of rest and leisure, so crucial for improving not just their contribution to the economy but for the wellbeing of society in general. As far as available resources are concerned, a more egalitarian distribution of wealth as mentioned earlier would free up resources for this.

Article 38(c) says the state should “provide for all persons employed in the service of Pakistan or otherwise, social security by compulsory social insurance or other means”. Article 38(d) says the state should “provide basic necessities of life, such as food, clothing, housing, education, and medical relief, for all such citizens, irrespective of sex, caste, creed or race as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment”. This is the foundation of a society where there is balance between collective and individual. Without this, the existence of the state itself becomes questionable.

Article 38(e) provides that the state should “reduce disparity in the income and earnings of individuals, including persons in the various classes of the service of Pakistan”, while Article 38(f) says the state should “eliminate riba as early as possible”. Here I must point out that as much as elimination of riba is desirable, it is an integral part of today’s complex banking system. Elimination of riba will require taking on much more powerful forces in the global economic order. This is a separate discussion.

Article 38(g) ensures that the “shares of the provinces in all federal services, including autonomous bodies and corporations established by, or under the control of, the federal government, shall be secured and any omission in the allocation of the shares of the Provinces in the past shall be rectified”. Most of these clauses are self-explanatory.

Article 34 of the constitution says: “Steps shall be taken to ensure full participation of women in all spheres of national life.” Here by “all spheres of public life” economic spheres would mean opening doors for employment, starting businesses or any other means of becoming financially independent. Social spheres would mean access to opportunities for leisure, entertainment, art and culture as well as civic activities. Political spheres would mean not just as voters or nomination on reserved seats but to enable women to enter mainstream political leadership. Right now women’s participation in all spheres of life is abysmal. The fact is that half of the country’s population has been sidelined from all spheres of public life. Without empowering, enabling and facilitating women, there is no way Pakistan can become a real part of the developed world.

There are many other articles in the constitution that are related to human rights and freedoms. But the above are revolutionary, exactly as intended by its framers. This constitution was written in 1973 by consensus and approved by all sides, whether on the left or the right of the political spectrum. Their dream has remained unfulfilled even after fifty years as there is a lack of political will to implement these clauses. And this is not surprising because there is an obvious conflict of interest between what needs to be done and those who have the power to do it. These constitutional articles are a threat to their monopoly on power and wealth. So, the only possibility of making that happen is to put those in the seat of decision-making whose lives are at stake due to non-fulfilment of these clauses. But can that be accomplished through a parliamentary system? This is the real question. And on this question hangs the future of 230 million people.

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