

Critical Assessment of the Constitutional Response to the Militants' Claims of Islamization in Pakistan

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ABSTRACT

Conspiracies do often work behind the scene. They come into human sight when the course work gets completion. They flow from mind to mind abstractly but change comes physically. Why it is so and why they are kept secret? It remained a question and will be, just as it was. One fact which is mostly clear is that all is done for some secret interests which could not be achieved facially. This was the case with the Britishers who came to the Sub-Continent as merchants and became rulers in a short span of time in 1857. They subjugated the people having a territory of 42, 35, 560 square kilometers with their own government. They oppressed the people severely with every possible manner but, as foreigners; they could not maintain their occupation so longer than several years. The people of the Sub-Continent i.e. the Hindus the Muslims and the Sikhs started their bloody struggle to get freedom from them, at first, jointly as one nation and later on the religious and cultural differences separated their freedom seeking tracks and consequently they made it possible in one hundred years up to the year 1947. The merchants completed their homework here and went back in 1947. They split the unity of Indians in to two parts creating two separate dominions; Pakistan and India. Due to their unjust divisional plan Pakistan was established on the territory of 9,47,970 square Km having two wings; the East and West Pakistan. Both the wings were too far away from each other with no land access. The other dominion; India was established on a vast land of 23,87,590 square Km. What an unjust partition and what an unjust conspiracy! The then Prime Minister Liaquat Ali Khan and the Constituent Assembly was able in giving the baseline Objectives Resolution to the country in 1949. Islam was placed as a State Religion with the concept of sovereignty belonging to the Almighty Allah alone. The constitutions of 1956, 1962 and 1973 were framed on the same basis of Islamic Injunctions, revealed in the Holy Quran and expressed by the Sunnah. Pakistan is an Islamic polity and believes in the sovereignty of Almighty Allah and on the finality of the institution of Prophethood. Islam is defined as the combination of Holy Quran and Sunnah. Quran is a Divine Book and the Sunnah is its substantial humanly expression by the Prophet Mohammad (PBUH). The constitution of the Islamic Republic of Pakistan is fully Islamic in nature and spirit. The Preamble provides the Islamic basis for it and Article 2A makes it operational for enactment. The Article 62 sanitizes the Electoral Colleges from self-centered gadgets in Islamic and moral perspective. The establishment of the Council of Islamic Ideology under Article 227 has the responsibility to bring all the anti-Islamic laws in conformity with the Injunctions of Holy Quran and Sunnah. If the fact is that then what the Militants want? If Islam then it is there but if they have another secret agenda, then they are justified in their actions for attaining that but the people Pakistan has no need for their services. It is true that the system is not an Islamic one but the constitution has its own methodology of its Islamization. Everything is correct in this connection but only the proper implementation of the constitution is needed and it is the very important responsibility of the Parliament, the Executive and the Judiciary to operationalize the constitution into actual enactment in the whole country.

KEY WORDS; Constitutional development, Islamic Injunctions, Islamization, Council of Islamic Ideology, Legislation, Religious militancy, Militants' claims, Militants' tactics, Constitutional response.

INTRODUCTION

Historical Background

Nations form from a single individual and every individual has a multitude of desires and whims. It is natural to all individuals that they follow the ways and methods which accomplish their aims and objectives. The mixture of the whims of individuals become a tone of a group of people living in a certain territory having a shared culture and religion known as a Nation in the political history of the world. The amalgam of these whims is then called National Interests. Nations do their best in the pursuit of the fulfilment of these interests to survive on the surface of Earth. With the passage of time nations become stronger and weaker. The weaker nations then have either to abolish their national status or be absorbed in the stronger one. This was, is and will be natural to

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every nation in the world. Similar was the case to the nations of the Sub-Continent. This Continent was resided by different civilizations with multiple cultures and religious traditions. The Muslim Mughal Empire remained in power from 1526 A.D to 1857 A.D. The multiplicity of cultures and religious traditions made them weaker and weaker to such an extent that the British Government overpowered the Mughal Empire and subjugated the whole community in every aspect of life. The British people were once merchants in the Sub-Continent and then they became the Rulers under their lust of expansionism and Colonialism which, again, were their national interests.

Thousands of innocent people were massacred, women became widowed, children lost their parents and the remnants were deprived of their natural rights. The whole community remained passive up to 1885 A.D and then an air of free-will blown in the minds of some elders of the Sub-Continent. During the Passive Era of the Sub-Continent the British regime changed her mind and started to impart the Indians with their new Western education so as to make their supporters in the territory. In this end they succeeded in creating a group of certain well-educated people who were able to substitute and impersonate them in their absence. Sir Syed Ahmad Khan was a leading Muslim scholar who introduced a new system of Western education to the Muslims of the Sub-Continent and injected Western spirit¹ in the veins of Muslim youths of the continent. Maulana Mohammad Qasim Nanothvi and Maulana Shibli were against the Sir Syed's Westernization policy so they fully criticized him.²

In 1885 a British Professor Mr. Hume established the All India National Congress (AINC) and the all the Muslims, Hindus, Sikhs and many other religious segments of the continent joined the AINC to get freedom from the British subjugation. The AINC was not sincere to the Muslims and she was Pro-British too so some of the Muslim leaders were thinking for a separate Muslim organization. For this end they got success and created a separate Muslim wing known as AIML in 1906 A.D. Dr. Mohammad Iqbal (a poet philosopher) joined the AIML. Mohammad Ali Jinnah and many other Muslim leaders joined the AIML in 1914 partially and in 1920 absolutely, resigning from the membership of AINC. After a great struggle, the AIML was successful in launching the "Concept of Pakistan" as a separate Muslim state, in 1930 in the Presidential Address of Dr. Mohammad Iqbal at Allabad and onward got the "Resolution of Pakistan" on 23rd March 1940 at Lahore which was the mile-stone and foundation of Pakistan due in 1947.

Constitutional Development in Pakistan

Pakistan came into being, actually, on 15th August 1947³ but as the new state of India termed that day as her own Independence Day so Pakistan has announced the 14th of August 1947⁴ as the Independence Day of Pakistan. The previous pre-partition Constituent Assemblies of both the dominions were given the power to frame their own new Constitutions but up to the new constitutional set-up, both the dominions were to be run by the old Government of India Act of 1935. The Governor General of each the dominions as empowered to make some essential adaptations, omissions, additions and modifications till 31 March 1948: later extended to 31 March 1949.⁵

Mohammad Ali Jinnah was made the first Governor General and head of the new state of Pakistan on the same day and the Constituent Assembly moved a resolution in the House to honour Mohammad Ali Jinnah as "Quaid-e-Azam" (great leader) and "Father-of-Nation". The Assembly passed this resolution enthusiastically with great and passion and love. Quaid-e-Azam Mohammad Ali Jinnah made his first historical speech in the house so as to announce the basic principles and instructions for the new state, Pakistan. He declared the future vision of the state that the new state would be a modern state based on the golden principles of Islam and that every one would have equal rights of citizenship irrespective of religion, creed or cast.⁶

After the birth of Pakistan constitutional framing was the most important task before the Constituent Assembly. Constitution acts like a spirit of the State and without it, it is impossible to be run. In this connection the Quaid-e-Azam Mohammad Ali Jinnah gave a clear future vision to the Constituent Assembly to frame the new constitution in the next 18 months and that its full operation will be completed in the next two years.⁷ Unfortunately, the Quaid-e-Azam Mohammad Ali Jinnah died on 11th November 1948 and the sibling new baby State became an orphan with no mature political set-up or constitution having a muscular chasing rival State of India on its borders.

Khwaja Nazimuddin took the office of Governor General of Pakistan After the death of Quaid-e-Azam Mohammad Ali Jinnah and Liaquat Ali Khan became the first Prime Minister of the state. Constitution making was the most imperative task in front of the Constituent Assembly. In this connection, the Liaquat Cabinet successfully moved a resolution to present patent guidelines for the framing of the new constitution. The Constituent Assembly was comprised of many types of members i.e. the Muslim members and the non Muslim members. There were liberal as well as moderate Muslim members, and radical Muslim clerics in the Assembly. The new constitution was to be framed with such a technique which should easily cover the whims of all political clusters and obviously it was a difficult task to be dealt with.⁸ Of course, Liaquat Ali Khan moved the Resolution and the Constituent Assembly passed it with great majority on 12 March 1949. It was the first significant step in the constitutional history of Pakistan. It should be clear that it was not a constitution but rather it was the groundwork for the fabrication of the new constitution and that is why this Resolution is known as

“Objectives Resolution” in the history of Pakistan. It remained the preamble of each constitution of the state of Pakistan. The Resolution cleared the way for the coming constitution and declared that Pakistan would be an Islamic State and Islam would be the state religion and that sovereignty over the entire universe belongs to the Almighty Allah.

The Objectives Resolution, 1949

The Objectives Resolution is the base of the Constitution of Pakistan so some extracts are outlined here in its actual contour so as to clear the image of Pakistan as an Islamic state and not a secular one. The Objectives Resolution declares that sovereignty over the entire universe belong to Allah and the assigned authority will be used as a sacred trust.⁹ It clarifies that the golden principles articulated in the holy religion of Islam such as freedom, equality, tolerance and social justice will be followed in letter and spirit.¹⁰ The resolution illuminated that the Muslims would be enabled to order their lives in accordance with the Injunctions described in the Holy Quran and Sunnah.¹¹

The above extracts have been taken from the original text of the Constitution of the Islamic Republic of Pakistan. This was the vision of the framers of the constitution and also that of our forefathers. This resolution was clarified and fully approved by the Constituent Assembly on 12th March 1949. The Constitution of 1956 was also formed on the basis of this Resolution. The 1956th constitution declared that steps should be taken to enable Muslims to order their lives in accordance with the Holy Quran and the Sunnah, *inter alia*, and gambling, drinking and prostitution etc. were to be dealt with such laws as declared in the Holy Quran and Sunnah. The constitution also gave accent on the proper organization of mosques.¹²

Similarly Islam was consigned as the state religion in the constitution of 1962. The Objectives Resolution was dispensed as the preamble of the Constitution. The 1962's constitution the government machinery was made responsible to Islamize all the laws which were not in conformity with the laws proclaimed in the Holy Quran and Sunnah. The proper organization of Zakat (religiously due tax) and mosques was guaranteed. Article 198 of the 1956's Constitution was placed in its actual shape which had laid down that no law should be enacted which would be repugnant to the injunctions of Islam as laid down in the Holy Quran and Sunnah.¹³ In the light of above discussion it is clear that Pakistan is an Islamic state basing on the golden principles of Islam taught by the Holy Quran and Sunnah. It is another issue that the state's Political and Bureaucratic set-up do not pay any heed to the appropriate implementation of Islamic laws enunciated in the Holy Quran and Sunnah.

The Recent Constitution of the Islamic Republic of Pakistan¹⁴

After the end of legal differences and the disastrous segregation of the East Pakistan the then political administration was able to fabricate an absolute constitution for the state which was accomplished successfully. The tone of the constitution remained the same as that of the earlier constitutions but some new essential provisions were introduced with appropriate modifications, additions, omissions and adaptations to the previous charters. The Objectives Resolution is the preamble of the constitution with its original text. Islam is the State Religion with sovereignty over the entire universe belonging to the Almighty Allah alone. The constitution was formally sanctioned by the Parliament¹⁵ and approved by the president of Pakistan on 12th April 1973.

The constitution is fully Islamic in nature and spirit. It has 280 Articles, 7 schedules with some appendices put in the last chapter. The Objectives Resolution is the Preamble of the constitution. Some contemporary scholars and judges have the idea that though the Objective Resolution is part of the constitution, but in their considerations, this is not the substantive part of the constitution so in 1985 a new Article 2A was inserted in the constitution by a Presidential Order No 14 of 1985 (w.e.f. 2nd March 1985)¹⁶ which validated the Resolution as a substantive part of the constitution and Islamic Injunctions were made practicable in the state's policy.¹⁷ Under this regulation the said Objectives Resolution became a regular section of law to be employed in the country.¹⁸

The putting of the auxiliary verb “shall” instead of “will” rather accentuate the implementation of the provisions of the constitution. According to the grammatical usage of the auxiliary verb “shall” instead “will” put rather emphasis on the sentence's physical enactment and implementation.¹⁹ Grammatically, the auxiliary verb “will” after the word “Islam” was the correct usage but the framers have made it more compulsory for enactment.

Again it is very interesting that the 2nd Chapter of the constitution is related to the Directive Principles of Policy of the state. This means that these Directive Principles will serve as the basis for legislation, policy and decision making of the State's Executive and Judicial strategy absolutely. Article 31 of the Constitution states that the Muslims of Pakistan will be enabled to express and order their lives in accordance with the doctrine of Islamic philosophy as enunciated in Quran and Sunnah.²⁰ Zakat, Ushr and Auqaf were institutionalized under this act and declared the subject of Islamiyat compulsory at school, college and university level, the Arabic language too was made compulsory up to some levels at schools.²¹

The constitution gives full accent on the Islamic way of life as enunciated in the Holy Quran and Sunnah and eradication of all types of social evils from the Muslim society of Pakistan. It is, rather, very

interesting that the constitution made it compulsory duty of the state's functionaries to facilitate and enable the Muslims of Pakistan for ordering their lives in accordance with the teachings of the Holy Quran and Sunnah. Article 37 sub-clause (g) and (h) gives full accent on the eradication of social evils such as prostitution, gambling, taking of injurious drugs etc. which are proscribed in Islam.²²

The constitution articulates that the promotion of social and economic well-being of the people of Pakistan is the basic and compulsory duty of the state's functionaries. Riba: taking interest, is though an economic exploitation so it is also proscribed in the constitution and that making proper provisions for its elimination is the duty of the state. The constitution gives full security to the basic needs of life such as food, clothing and housing and medical relief to the general public when they are unable to uphold their social status in the society. Riba²³ was to be terminated gradually. Article 38 sub-clause (d) and (f) are fully accorded for all these provisions compactly.²⁴

The Legislature of Pakistan

Pakistan is a federal state with the parliamentary form of government. The **President** of Pakistan is Head of the Federation and all the powers are vested in the Prime Minister as the head of the Executive. The federation of Pakistan has a bicameral Legislature known as the **Parliament**. The Parliament is comprised of the **National Assembly** and the **Senate**. The National Assembly is the lower chamber and the Senate is the upper chamber of the Parliament. The members of the National Assembly are elected by the general populace of Pakistan in general elections. Each member represents the people of his constituency in the National Assembly. The Senate is the second and upper chamber of the Parliament and its members are elected by the Electoral Colleges of the National Assembly and the Provincial Assemblies with the system of Proportional Representation by means of the single transferable vote. The president is elected by the all Electoral Colleges of National Assembly, the Provincial Assemblies and the Senate for the period of five years.

The constitution, coherently, put-forward some compulsory qualifications for the members of all the Electoral Colleges of the Parliament of Pakistan. In this context the National Assembly is the most important organ of the federal government. Therefore the constitution asserts the following qualifications for the membership of the National Assembly, the Senate, the Presidency and the Prime Minister. The Article 62 disallows membership to the above responsible posts when they have dire character in society and do not have the basic knowledge of Islamic teachings and similarly the transgressors of major sins were also disallowed.²⁵ Giving false evidence causes a person disallowed from the membership of Parliament on the basis of this Article.²⁶

The non-Muslim members are excepted from the sub-clauses of (d) and (e) qualifications but they must have good moral reputation and might not be a corrupt ones.²⁷ The constitution disqualifies a person from the membership of each of the Electoral College if he is propagating any opinion or acting in any manner prejudicial to the Ideology and Sovereignty²⁸ of Pakistan.²⁹ The same are the qualifications for the President of Pakistan³⁰ and other federal and provincial ministers of Pakistan. The President and Prime Minister of the State must be Muslims having firm belief in the Day of Judgement, the Holy Quran and Sunnah and on the finality of the Prophethood on Mohammad (PBUH) that he is the last Prophet and there would be no Prophet after him.³¹

Except from all these constitutional clarifications relating to the Islamization of the State and its Political Machinery, there are some other specific provisions in the constitution for making the State as a full-fledged Islamic State. The Part IX of the constitution having 5 Articles i.e. from Article 227, to Article 231 are fully assigned to the Islamization of the State's political set-up. The research presents some references from that part of the constitution for convenience.

Constitutional Provisions for Islamization

The constitution introduces specific provisions for bringing the existing laws with conformity with the teachings of the Holy Quran and Sunnah. Accordingly, Article 227 of the constitution affirms that the present repugnancy to Islamic Injunctions in the constitution will be brought in conformity with Islamic Injunctions described in Quran and Sunnah. Different sects were allowed to follow their own method of Sharia interpretation and the non-Muslims were given full security from legal turbulence in their respective personal and other laws.³²

According to Article 228 of the constitution there shall be a Council of Islamic Ideology known shortly as Islamic Council. This Article introduces composition of Islamic Council, its functions, strength of the members and its modus-operandi. Article 229 confers its application to the legislation process of the National and Provincial Assemblies, the President of Pakistan and the Governors of the Provinces. The President, The National Assembly, the Provincial Assembly and the Governor of the Provinces shall refer different cases to Islamic Council for seeking that whether a proposed law is or is not repugnant to the Injunctions of Islam.³³ The obligatory functions of the Islamic Council are explained in the Article 230 of the constitution. In this Article it is proclaimed that the Islamic Council shall be responsible to make proposals to Parliament and the Provincial assemblies to legislate for enabling the Muslims of Pakistan to order their lives with principles of Quran and Sunnah in their individual and collective spheres. Both, the National and Provincial Assemblies were restricted

to the recommendations of the Council of Islamic Ideology for Islamic legislation and recorection of anti-Islamic laws.

The remaining sub-clauses of this Article 230 elucidates the procedure of different law relating references made to the Council by the President, the Governors, the National and Provincial Assemblies, as the case may be, and its resolution with the conformity of the Injunctions of Islam and the disposal of such cases thereof. The above mentioned functionaries are closely restricted to follow the guidelines and advice of the Islamic Council. Different time schedule is given in the constitution for the clearance of such like cases in front of the Islamic Council.³⁵The council shall be regulated by rules of procedure to be made by the council with the approval of the President.³⁶

Scrutiny of the Militants' Demand of Islamization in Pakistan

This research attempt will assess the nature of the militants' demand for the Islamization of the political system in Pakistan in the light of the constitution of Islamic Republic of Pakistan. Pakistan is an Islamic state which came into being on 14th August 1947. According to historians its existence is based on the ideology of Islam. Since its birth Islam remained as a state religion in all of its constitutions. The founder of the state, Quaid-e-Azam Mohammad Ali Jinnah himself has expressed this view in his addresses many time on different occasions. The Muslims and the Hindus were and are two different nations with different ideologies respectively. This was the basic foundation theory of the formation of the state of Pakistan. The militants have their own agenda and respective mode of justification from religious accounts tactically though the nature of their arguments may be something but rather it has been clarified in this research attempt that Pakistan is an Islamic state and its constitution is fully Islamic in nature and spirit.³⁷

According to the constitution of Pakistan sovereignty over the entire Universe belongs to the Almighty Allah alone. If the sovereignty belongs to Allah then what remains in this constitution as un-Islamic as the militants have claimed many times that the constitution is un-Islamic. It is true that some laws, described in the Criminal Procedure of Pakistan still has an ambiguous nature but there is a Council of Islamic Ideology in the country which is in function for the Islamization of those laws and procedures gradually. According to the constitution of Pakistan the President might be a Muslim and similar is the case with the Prime Minister of the country, Pakistan, to be a Muslim with sound mind. More than 98 percent of citizens are Muslims. The belief in the finality of the holy prophet (PBUH) is the basic character of a Muslim and it is the substantive part of the definition of Muslim in the constitution of Pakistan. So what are the grounds for militants and for their illegitimate claims that Jihad is permissive inside in Pakistan against its Army and many other institutions? The Muslims are free to practice all the obligatory duties prescribed by the Almighty Allah on them carefully. The Parliament could not legislate any un-Islamic law or Regulation in the country. There is a separate Ministry for Auqaf, Hajj, Ushr and Zakat. Billions of Zakat fund is distributed among the needy people every year. Islamiyat is compulsory subject up to the school and University level.³⁸ Is there anything wrong in this cross-examination of the facts discussed above in the light of the constitution of Pakistan with much detail?

Pakistan is an Islamic Democratic State and the constitution has given the basic directive principles of policy for the legislation. The Militants claim that democracy is un-Islamic and that Islamic revolution could not be brought through democracy in the state of Pakistan. What is wrong to democracy? The mindset of the people is wrong not the democracy. This effort does not validate all forms of democracy and also it is out of the scope of this attempt but rather it affirms that the basic error lies in the populace not in democracy but the militants have miscalculated the conception of democracy in Pakistan.

It is obvious that democracy is such form of governance in which the populace exercises their opinion freely in favour or against a certain issue or fact. It provides every opportunity to the general populace for bringing change in or outside the country through peaceful demonstrations and expression of thoughts. The concept of Vote is, to some extent, new to the ideology of Islam but what is wrong to it? If a person enters a polling booth to cast his vote to his favourite candidate, is there any democracy in the polling booth which prohibits him/her from casting his vote to a virtuous and honest candidate? Exactly no. If it is so and this critical assessment confirms that it might not be so, then where is the error? in democracy or in an individual? Exactly, the origin of the error lies in the mindset of, simply, in an individual and, generally, in the opinion of the whole populace, not in democracy.³⁹ So as a conclusion it is the duty of religious scholars and leaders to create sense of honesty, goodness and morality in the people, so, then they would be able to take any dishonest decision in anyway. They will avoid themselves from any type of religious and moral turpitude. In this connection the teachings of Quran and Sunnah emphasize on virtues and the accuracy of the morality of the mind-setup of humans which, actually, is the basis of every delinquency. This change could be brought from inside the humans' minds not outside from them.

In the result of the above critical analysis it can be concluded that any type of militant activity in Pakistan for the Islamization of the political system is un-Islamic and out of the teachings of holy Quran and Sunnah of the prophet (PBUH). There is a systematic process for the alteration of political governments every five years. Elections are held after five years tenure. The individuals aging 18 years of age have their right to cast their vote to their favourite candidates in both the Assemblies, National and Provincial. According to the

eminent religious scholar of Pakistan, Allama Mufti Muhammad Shafi has clarified that peaceful change could be brought by the correct deployment of vote in a democratic state.⁴⁰ The five year fortune of a state falls always in the hands of voters and it is for them to decide the future of the state during elections. All the voters have their own choice to recommend a good and honest person which would represent his opinion in the respective houses of National or Provincial Assemblies. Rather, the populace has the freedom of peaceful demonstration against any irrational or un-Islamic activity of government. Their peaceful democratic demonstration can alter the government. The people have observed such type of demonstrative revolution in Egypt and Tunis in the recent modern era of international politics. So in the light of above arguments this research might not confer any legal or rational justification to religious militancy neither in PATA, Malakand division nor in the whole of Pakistan or any part thereof.

Religious Militancy in Constitutional perspective

The research is limited to Pakistan but, today, militancy is a global issue and it can be controlled collectively. So, this research discourse will attempt to focus on the nature of the problem of militancy irrespective of regional relevance. Therefore, here, the constitutional aspect of the problem will be taken theoretically without any special reference to a specific region. The constitutional status of Islam has been discussed with the actual citation from the constitution of the Islamic Republic of Pakistan in the previous parts of this paper but, here again; some light is thrown on it briefly.

According to the constitution of Pakistan sovereignty belongs to the Almighty Allah alone as declared in the preamble of the constitution and substantiated by the Article 2A. the people of Pakistan will use the this assigned authority in the limits prescribed in the Islam as a sacred trust. This also was the vision of uaid-e-Azam muhahhamd Ali Jinnah that there would be a system in Pakistan which will be based on the Islamic Injunctions pronounced in the Holy Quran.⁴⁰ Islam is the state religion of Pakistan. Article 2 of the constitution clarifies that; Islam shall be the state religion of Pakistan⁴¹. The usage of the auxiliary verb “shall” instead of “will” rather fortify that Islamic Sharia will be the basis of all the political structures of Pakistan and its administrative set-ups.

The founder of the state has given his full accent on the democratic system of Islam in the country. If he is not here today, then, who is responsible for the misconduct towards the spirit of the constitution of Pakistan? The research affirms that the people themselves are responsible for this not the politicians because the populaces do not elect such representatives who may know the concept of sovereignty and is aware of the teachings and requirements of Quran and Sunnah. Their vote can do anything in this connection but they do not like to change the political scenario of Pakistan from secularity to Islamism.⁴²

When the political leaders and many other legal experts were asked about the concept and establishment of the Sovereignty of Almighty Allah, their answer was that the preamble of the constitution was not the substantive part of the constitution.⁴³ Consequently, in 1985 the then president of Pakistan, Gen Zia-ul-Haq inserted a new Article 2A by his presidential order no 14, 1985 which declared the Objectives Resolution of 1949 as a Substantive part of the constitution of Pakistan. Before this the Objectives Resolution was placed as the Preamble of the constitution of Pakistan but now it is made operational with Article 2A of the constitution effectively from 1985 onward.⁴⁴

The Objectives Resolution was made a substantive part of the constitution but, actually, that is still passive in action and has no validity in the political structure of Pakistan. Similar is the case with Article 62 and 63 of the constitution. In these Articles different qualifications are have been listed for the members of National and Provincial assemblies. Sub-clause 2 [d] and [e] of the Article 62 declares the qualifications of candidates of either the houses that they shall be of good character and shall not violate the Injunctions of Islam. In sub-clause (e) abstaining from major sins adequate knowledge of Islam is also compulsory in the constitution of Islam.⁴⁵

Everything is clearly defined in the constitution of Pakistan. The constitution declares Islam as a State religion with the Sovereignty of God with no doubt. Now, it is the duty of, at first, the people of Pakistan, not to elect such persons whom conduct is against the spirit of Islam and the constitution of Pakistan, and second, that of the Judiciary of Pakistan, to inspect the full socio-religious background of the candidates of both the Houses including the Senate of Pakistan. The problem rests firstly, in the political parties, secondly, in the respective community of the candidate and thirdly, in the Judiciary of Pakistan, not in the Parliament itself. The candidates might have to pass through these tracks. They can be disallowed from candidacy in either track. The research asserts the accuracy of the system with this triple-track strategy in Pakistan.

Critical Assessment of Militants' Tactics

The militants are burning schools, government infrastructure and killing the individuals and claim that they are doing Jihad to enforce Sharia law in the country. Can these tactics be justified? Schools, bridges, buildings, roads military barracks etc. could not be made responsible for the inaccuracy of the system. Similarly, the killing of infants, Army Personnel, political leaders and scholars could not change the scenario of politics. Such like barbaric tactics are un-Islamic and unconstitutional. If, in their opinion, change could be brought by this methodology then they would have to go to the gross root level for such like irrational political change. There, at the gross root level, the militants would have to kill all the community members of the society because

the members and ministers are elected by the community people. They do not come from the heaven to be a minister or political leader.

Similar is the case with Security Forces and Pakistan Army. Pakistan Army is the defender of the geographical boundaries of the state. It defends the state when it is at risk, either from external or internal sides. Their duty is sacred and they face any jeopardy or threat to the solidarity and integrity of the state willingly. The Army does not take any part in the political affairs of the state. It could not interfere in the matters of civil administration itself but it is called by the civil political government to work in aid of civil administration for the control of law and order situation when and wherever necessary in the country.

According to Article 245 sub-clause [1] of the constitution of Pakistan the Armed Forces shall, defend Pakistan against external violence or threat of conflict under the directions made by the Federal Government and that their military action will not be questioned in any court of law accordingly.⁴⁶

This Article, here in this research, elucidates that Pakistan Army has no right to take any part in the civil affairs but rather it is called by the Federal Government to act in aid of the civil power in the area to which the Federal Government assign its services. Coming to militants again, they claim that Pak Army is fighting against them so their militant activities are justified in their opinion. The research, again, approaches to the base of the problem from where it generates. Here too, this assessment ascertains the responsibility to the gross root level. As it is mentioned above that Pak Army is called upon by the Federal Government for action in aid of civil power so, again, what is the composition of Federal Government? Federal government is the composition of Parliament, Executive and Judiciary in centre. It comprises all of the members of Parliament which are the elected representatives of the people at base level.⁴⁷

The religious militants are acting on their own agenda. They have no constitutional mind set-up but rather they quote Quranic verses for the justification of their deeds and militant tactics claiming for bringing the revolution in the country which is not possible by these un-Islamic and Un-constitutional means. Islam does not teach such like tactics for the alteration of the political system. The need of the day is not that of the militants' claims but rather the religious clerics has to preach the Islamic norms in its actual form.

Dozens of Religio-political parties are working in the name of Islam. They have their own specific political agenda and political interests. The constitution is not fulfilling the needs of the Islamization of the state in their opinions. They are may be justified in their opinion but the main question is of the actual implementation of the Islamic provisions made for the Islamization of the political system of the country.⁴⁸ The Council of Islamic Ideology has made hundreds of recommendations to the National Assembly for certain laws that those are not in conformity with the Holy Quran and Sunnah but no action has been taken in that context.⁴⁹ The council made 55 recommendations to the National Assembly from 1973 to 1974 and 33 recommendations from 1976 to 1977 and 151 recommendations have been made from 1977 to 1978 but no attention has been paid, relevantly, for the modification of the recommended un-Islamic laws in the state⁵⁰

The Conclusion

Pakistan is an Islamic state based on the ideology of Islam. It came into being on 14th August 1947. The founder of the state asserted on many occasions that Pakistan would be an Islamic state based on the golden principles of Quran and Sunnah. After the birth of Pakistan the founder of the nation, Quaid-e-Azam Mohammad Ali Jinnah assured that the new constitution would be framed in the coming 18 months and optimistically would become operational in the next two years but he passed away before the completion of that period. After his death the constitutional homework continued up to the extent that the then Prime Minister Mr Liaquat Ali Khan was successful in passing the Objectives Resolution 1949 which was fully Islamic in nature. The Resolution was based on Islamic Ideology as sovereignty belongs to the Almighty Allah alone and Quran and Sunnah were proclaimed as the basis of the constitution. Consequently the 1956's constitution was framed on the same basis as Islamic in nature. The 1962's constitution also followed the same Islamic tone. Political contestations went on in Gen Ayub's Era and the country was engulfed in the war of 1965 leading to the second tragedy of 1971 when the East wing of the country was broken from its West wing in the conspiratorial war with India.

The last and final constitution was framed in 1973 and was passed on 12th April 1973 and was promulgated in the country. The constitution is Islamic in nature as Islam is the state religion, sovereignty belongs to the Almighty Allah, no law repugnant to the Injunctions of the Holy Quran and Sunnah can be passed, an Islamic Council (Article 227 to Article 231) is present for interpreting the un-Islamic laws and bringing them with conformity to the Islamic Injunctions, Article, 2A, 62 and 63 are there but no change came to the system.

The Council of Islamic Ideology has dispatched thousands of recommendations to the President and National Assembly for bring some modifications to certain laws which are repugnant to the Injunctions of Islam but there is no functional change toward Islamization of the laws. It is the duty of the President and that of the Supreme Court to effectuate the passive organs specified for that sacred purpose. The militants have their own working agenda for their terrorist activities but the fallacy is lying at the gross-root level in the general

populace and in the administrative passivity of the state and they are responsible for all the misfortune of the country. Due to the unique geo-political circumstances surrounding the state, the Militants' brand of Islam is unique in their opinion but no need to Pakistan because it is already an Islamic state though its nature is far more passive functionally.

REFERENCES AND NOTES

1. Hamid Dabashi, *Authority in Islam*, (New Jersey, USA: Transaction Publishers, 1992), 155.
2. Hamid Dabashi, *Authority in Islam*, (New Jersey, USA: Transaction Publishers, 1992), 140.
3. Hamid Khan, *Constitutional and Political history of Pakistan*, (Karachi: Oxford University Press, 2009), 40.
4. Lord Mountbatten announced on 14th August 1947 that from tomorrow the peoples of the Sub-Continent will be in their new states i.e. Pakistan and India, free from the British clutches so Pakistan termed that day as her Independence Day.
5. Hamid Khan, *Constitutional and Political history of Pakistan*, 2nd Ed., (Karachi: Oxford University Press, 2009), 42.
6. Hamid Khan, *Constitutional and Political history of Pakistan*, 2nd Ed., (Karachi: Oxford University Press, 2009), 50.
7. Speech of Sibi Durbar; 14 February 'New Era of Progress for Baluchistan', *supra*, note 2, p. 139.
8. Hamid Khan, *Constitutional and Political history of Pakistan*, 2nd Ed., (Karachi: Oxford University Press, 2009), 62.
9. Preamble of the *Constitution of Islamic Republic of Pakistan*.
10. *Ibid*.
11. *Ibid*.
12. Hamid Khan, *Constitutional and Political history of Pakistan*, 2nd Ed., (Karachi: Oxford University Press, 2009), 100.
13. Constitution of 1962, Article, 198.
14. The Constitution framed in 1973 is the permanent constitution of Pakistan so the addition of the figure 1973 is left as it is unnecessary.
15. The Parliament, also known as Legislature, comprises bicameral in Pakistan i.e. the National Assembly and the Senate. Bills are generated in the National Assembly, go by the Senate and finally become approved by the President shaping into regular law of the country.
16. Article 2A, *Constitution of the Islamic Republic of Pakistan*.
17. Article 2, *Constitution of the Islamic Republic of Pakistan*.
18. Article 2A, *Constitution of the Islamic Republic of Pakistan*.
19. John Eastwood, *Oxford Practice Grammar*.
20. Article 31, *Constitution of the Islamic Republic of Pakistan*.
21. *Ibid*.
22. Article 37, *Constitution of the Islamic Republic of Pakistan*.
23. The term "Riba" is an Arabic word which is meant as taking of interest on capital investment which is prohibited in Islam (Quran 2. 278 f).
24. Article 38, *Constitution of the Islamic Republic of Pakistan*.
25. Article 62 (a), *Constitution of the Islamic Republic of Pakistan*.
26. *Ibid*, (d), (e), (f) and (g).
27. *Ibid*.

28. According to the constitution, sovereignty belongs to the Almighty Allah alone so a person will be disqualified from the membership of either of the Electoral Colleges or as President, as the case may be, if he does not fulfill this qualification.
29. Article 63 (g), *Constitution of the Islamic Republic of Pakistan*.
30. Article 41 (2), *Constitution of the Islamic Republic of Pakistan*.
31. Third and Fourth Schedules, *Constitution of the Islamic Republic of Pakistan*.
32. Article 227, *Constitution of the Islamic Republic of Pakistan*.
33. Article 229, *Constitution of the Islamic Republic of Pakistan*.
34. Article 230, *Constitution of the Islamic Republic of Pakistan*.
35. Article 230 (2), (3) and (4), *Constitution of the Islamic Republic of Pakistan*.
36. Article 231, *Constitution of the Islamic Republic of Pakistan*.
37. Muhammad Rana Safdar Sial, *Radicalization in Pakistan*, (Lahore: Narratives Pvt Ltd, 2012), 21.
38. Ibid, 27.
39. Ibid, 86.
40. Khadim Husain, *The Militant Discourse*, (Lahore: narrative Pvt Ltd, 2013), 56.
41. Article 2, *Constitution of the Islamic Republic of Pakistan*.
42. Hamid Dabashi, *Authority in Islam*, (New Jersey, USA: Transaction Publishers, 1992), 60.
43. Khadim Husain, *The Militant Discourse*, (Lahore: narrative Pvt Ltd, 2013), 136.
44. Article 2A, *Constitution of the Islamic Republic of Pakistan*.
45. Article 62, *Constitution of the Islamic Republic of Pakistan*.
46. Article 245, *Constitution of the Islamic Republic of Pakistan*.
47. Ajay Darshan Behera and Mathew Joseph C., *Pakistan in a Changing Strategic Context*, (New Delhi: Knowledge world, 2004), 115.
48. Prof. Khurshaid Ahmad, *Pakistan ma Nifaz-e-Islam*, Urdu, (Islamabad: IPS,1994),35.
49. Ibid, 35.
50. Ibid, 35.