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Safeguards for Minority Rights: An Analysis of Pakistan's First Constituent Assembly (1947–1954)

Abstract

This study critically examines the role of the first Constituent Assembly of Pakistan (1947-1954) in formulating constitutional protection for non-Muslim minorities. It undertakes a detailed examination of key parliamentary documents, including the 1949 Objectives Resolution, the reports of the Seats Re-Distribution Committee and the Committee on Fundamental Rights of Citizens and Matters Relating to Minorities, as well as the 1954 Basic Principles Committee Report. The findings indicate while these institutional mechanisms produced fundamental provisions for minority rights, their implementation remained challenged. The study, however, identifies a growing ideological tension between the initial vision of a secular state and the subsequent ambition to establish an Islamic Republic, which minority members argued institutionalized majoritarian supremacy. The Assembly's dissolution further left this constitutional ambiguity unresolved, shaping Pakistan's ensuing minority rights discourse.

Key Words: Constituent Assembly, minority rights, Objectives Resolution, secularism, Islamic Republic, fundamental rights, constitutional development, ideological tension, Pakistan

Introduction

Pakistan came into being on the foundation of Islamic ideology. Although the majority of its people were Muslims, the country was also home to several non-Muslim minorities who felt uncertain about their future. Quaid-i-Azam was well aware of their concerns, and in his inaugural address to the Constituent Assembly on 11 August 1947, he specifically highlighted the importance of safeguarding minority rights in these words: —

“You are free; you are to go to your temples. You are free to go to your mosques or to any other places of worship in this State of Pakistan. You may belong to any religion or caste or creed— that has nothing to do with the business of the State.”¹

After the partition, the Government of India Act of 1935, with certain modifications, served as Pakistan's interim constitution. The Constituent Assembly was entrusted with the responsibility of drafting a permanent

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constitution for the new state. The first significant step in this direction came in March 1949 with the adoption of the Objectives Resolution, which was regarded as the cornerstone of Pakistan's future constitutional framework. The Resolution also assured fundamental rights for all citizens of the country—both Muslims and non-Muslims alike.

The adoption of the Objectives Resolution marked the official start of the constitution-making process. After it was approved in 1949, the Constituent Assembly set up various committees tasked with drafting a constitution grounded in the principles specified in the Resolution. Of all the committees, the Basic Principles Committee was the most important. Consisting of twenty-four members and led by the Prime Minister, it was pivotal in defining the constitutional framework. Prior to this, on 12 August 1947, the Assembly had formed a Committee on the Fundamental Rights of Citizens of Pakistan and Issues Pertaining to Minorities.

The committee was generally split into two parts: one was responsible for outlining the framework for fundamental human rights, while the other focused on securing the rights and protections of minorities in Pakistan. In 1950, the Constituent Assembly approved the committee's reports, which were formally finalized in 1954. Serving as the concluding phase of the constitution-making process, the Basic Principles Committee submitted its report on 21 September 1954, confirming measures to safeguard minority rights. Shortly after the report was submitted, Governor-General Ghulam Muhammad dissolved the first Constituent Assembly because the proposed framework aimed to restrict his authority. As a result, Pakistan had to wait another two years before its first Constitution was adopted on 23 March 1956.

Role of 1st Constituent Assembly of Pakistan in the Protection of Minority Rights

The Minority Rights under the 1st Constituent Assembly can be discussed through the following points:

1) Jogendra Nath Mandal as the Interim Chairman of the 1st Constituent Assembly

Mr. Liaquat Ali Khan put forward the proposal to elect Mr. Jogendra Nath Mandal as the interim Chairman, which was seconded by Khwaja Nazimuddin. Consequently, Jogendra Nath Mandal assumed the position of the first temporary Chairman of Pakistan's inaugural Constituent Assembly.²

Chairman's Inaugural Address:

Mr. Jogendra Nath Mandal: *"Gentlemen, it gives me great pleasure to announce that the election of a member from a minority community as Chairman reflects positively on the creation of Pakistan. This nation is the outcome of the persistent and rightful demands of the Muslim community in India. I wish to emphasize that not only the people of Pakistan and India, but people across the world, will observe the Pakistan Constituent Assembly and recognize that the Muslim community, determined to secure its legitimate rights and establish a separate State of Pakistan, will uphold justice, fairness, and generosity towards*

*the minority communities living in Pakistan. This, I believe, is a source of immense satisfaction. The minority communities in Pakistan can be reassured, as they have been repeatedly by the Muslim League leaders, particularly Quaid-i-Azam Mr. Mohammad Ali Jinnah, that they will be treated not only justly and fairly but with generosity as well. Now, gentlemen, as I have mentioned, we are fully aware of the solemnity and significance of this occasion. We recognize our rights and privileges, but we must equally understand our duties and responsibilities. When minority communities seek the protection, safeguards, and privileges offered by the State, they also assume the responsibility to remain loyal and faithful to it. Without such loyalty, their claims for safeguards and fair treatment have little justification. Therefore, I want to make it absolutely clear that the people of minority communities must adopt a new outlook, and all communities living in Pakistan should begin to trust one another. Distrust, hatred, enmity, and jealousy must give way to trust, love, friendship, and mutual cooperation”.*³

2) Quaid-i-Azam Muhammad's First Presidential Address and the Protection of Minority Rights

*“I am aware that some people still disagree with the division of India and the partition of Punjab and Bengal. Although much has been said in opposition to it, the decision has now been made and accepted. It is therefore the responsibility of each one of us to adhere to it with loyalty and to act honorably in accordance with this agreement, which is now final and binding on all. We must begin our national journey in a spirit of unity, setting aside the divisions that have long separated communities. Over time, the distinctions between majority and minority groups—between Hindus and Muslims, and even among the various sects and ethnicities within each, such as Pathans, Punjabis, Shias, Sunnis, Brahmins, Vaishnavas, and others—should gradually disappear. These internal differences, in fact, have been among the greatest obstacles to India's freedom and independence. Without such divisions, the people of the subcontinent could have achieved liberty much earlier. No power can indefinitely subjugate another nation—especially one composed of hundreds of millions—except through its own disunity. Hence, we must learn from this lesson. In Pakistan, every citizen is free: free to visit their temples, mosques, or any other places of worship. Religion, caste, or creed has no connection with the affairs of the State”.*⁴

3) Resolution: National Flag of the Federation of Pakistan and the Objection of Minorities

Mr. Liaquat Ali Khan moved the resolution: "That this Assembly resolves that the National Flag of the Federation of Pakistan be of the following description: A dark green rectangular flag in the proportion of length to width 3:2 with a white vertical bar at the mast, the green portion bearing a white crescent in the centre and a five-pointed white heraldic star.

The Flag, it will be noticed, is not the flag of anyone political party or anyone community. The flag is the Flag of Pakistan Nation, of the Pakistan State which has to come into existence on the 15th of August. Sir, the Flag of every nation is not merely a piece of cloth. It is not really the cloth that matters, but it is what it stands for, and I can say without any fear of contradiction that this Flag which I had the honor to present to this House will stand for freedom, liberty. and equality to those who owe allegiance to this Flag of Pakistan.”⁵

The flag was opposed by the minorities on the ground that it represented the flag of Muslim League. However, this flag was accepted as the flag of the state (Pakistan)⁶.

4) Seats allotted to Minorities in the “Seats Re-Distribution Committee Report”

The following motion was moved by Seats Re-Distribution Committee Report on 3rd January 1949:

"That this Assembly, having considered the report of the Committee appointed to examine the question of addition and/or re-distribution of seats in the Assembly, resolves:

- That the number of Muslim seats allotted to the West Punjab in the Constituent Assembly be increased by five;
- that the number of Muslim seats allotted to Sind in the Constituent Assembly be increased by one;
- that one " General" seat allotted to Sind in the Constituent Assembly, which is at present vacant, be filled up in accordance with the existing Rules of the Constituent Assembly;"
- That one seat be allotted to the minorities, that is Christians, Anglo-Pakistanis and Persis of the whole of Pakistan and that for this purpose they be pooled together and their representative be elected by the Constituent Assembly of Pakistan.

5) Objective Resolution: Provisions for Minorities

Mr. Liaquat Ali Khan moved the following Objectives Resolution embodying the main principles on which the constitution of Pakistan is to be based:

"In the name of Allah, the Beneficent, the Merciful;

- Whereas sovereignty over the entire universe belongs to God Almighty alone and the authority which He has delegated to the State of Pakistan through its people for being exercised within the limit prescribed by Him is a sacred trust.
- Wherein the State shall exercise its powers and authority through the chosen representatives of the people.
- Wherein the principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed.
- Wherein the Muslims shall be enabled to order their lives in the individual and collective spheres in accord with the teachings and requirements of Islam as set out in the Holy Quran and the Sunnah.
- Wherein adequate provision shall be made for the minorities freely to profess and practice their religion; and develop their cultures⁷.
- Whereby the territories now included in or in accession with Pakistan and such other territories as may hereafter be included in or accede to Pakistan shall form a Federation wherein the units will be autonomous

with such boundaries and limitations on their powers and authority as may be prescribed.

- Wherein shall be guaranteed fundamental rights including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, and worship, subject to law and public morality.
- Wherein adequate provision shall be made to safeguard the legitimate interests of minorities and backward and depressed classes.
- Wherein the independence of the Judiciary shall be fully secured.
- Wherein the integrity of the territories of the Federation, its independence and all its rights including its sovereign rights on land, Sea and air shall be safeguarded.

6) Maulana Shabbir Ahmed Usmani and the Minority Rights

Maulan Shabbir Ahmed Usmani was the strong supporter of Minority Rights. His death (13th December, 1949 at Baghdadul Jadid, Bahalpur State)¹¹ saddened the minorities of Pakistan. The Leader of the Opposition of that time-Shris Sris Chandra Chattopadhyaya expressed his condolence in these words.

"I am much grieved to hear the death of the great Maulana Sahib. His presence, especially for the minorities, during the framing of the constitution, would have been of great help. Generally, the religions peoples-Maulanas and Pandits are a bit conservative. But I found him a liberal man although he was a Maulana. Therefore, I had great respect for him. He was one of the greatest scholars and theologians of this country. Nay, he was a well-known figure in the Islamic world and Islam has lost in him a distinguished son. As regards minorities, we have lost a well-wisher and a friend. Here I wish to quote a passage from a speech delivered by Maulana Sahib in this Assembly on Objective Resolution:

"It is the duty of an Islamic State to fully safeguard the right, liberty, honor, religious freedom and civic rights of all the loyal non-Muslims within the jurisdiction."

"What is most important is the fact that enjoyment of these rights by non-Muslims does not depend on the sweet will of the Muslim majority; it is a duty imposed on the latter by God to protect the rights of the minorities and they can on no pretext whatsoever swerve from the path of their duty."⁸

That was a statement made in this Assembly. Therefore we, especially the minorities, have lost a friend in him. If we really wish to respect him, it is better to follow his precepts and his examples and messages."

7)Notion of Untouchability

The notion of Untouchability came under discussion among members of the 1st Constituent Assembly of Pakistan. Muslim and non-Muslim members like Shri Kamini Kumar Dutta, Mr. Nurul Amin, and Muhammad Ittikbaruddin expressed their views and condemned the concept of Untouchability in Hindu religion. Finally, the motion was moved which adopted that after Article 15, in Part II, the following may be added as a new Article:

“The notion of untouchability is being inconsistent with human dignity. Its practice is declared unlawful and shall be an offence punishable in accordance with law.”⁹

8)The Motion: Bengali being one of the State Languages and the Support of the Members of Minorities

On 10th April, 1952, Nurul Amin moved a resolution in the assembly which stated:

"This Assembly (Bengal Assembly) recommends to the Constituent Assembly that one of the State languages be Bengali."¹⁰ Along with East Bengal members, many members of minorities including Raj Kumar Chakravarty, supported this motion.¹¹

Raj Kumar Chakravarty expressed his views in these words:

“Pakistan is a multi-lingual State. There is, therefore, scope for having more than one language as the State language or languages of Pakistan. If we look round and study the history of the progressive countries of the world today, we find there are countries where there is more than one State language. For example, there is Canada; there is Switzerland and there is Russia. Therefore, when I support the motion, I do so because there is a good precedent in favour of the statement that Bengali should be one of the State languages of Pakistan.”¹²

Shri Kamini Kumar Dutta also stated:

“Our State is not a unitary one, it is a federated State with two main wings, Eastern Pakistan and the Western Pakistan, and the Bengali Language is admittedly the regional language of more than half the population of Pakistan. So, this demand that the language with which the future cultural growth and indeed the growth of the nation of the Pakistanis of East Pakistan is bound up should be one of the official languages, is a very legitimate demand and, I must state, an irresistible demand.”¹³

Moreover, Shri Sris Chandra Chattopadhyaya (the leader of the Opposition) supported the motion but also pointed out the issue in these words:

Hindus had not taken part in agitation and will also remain aloof from any future movement on language question; we do not want to take any part in this agitation. We do not agitate for Bengal language outside this House. This House is our only forum. We have tabled motions and we support the issue here and we had agitated for Bengali in this House before; and there it ended. We do not go outside to agitate. Many things have been stated and said in support of Bengali language. In this connection 12 Muslim Editors of East Bengal issued a statement, one of them is the Editor of the *Azad* of which my friend, Maulana Akram Khan, is the proprietor, strongly supporting the demand for Bengali as State language.¹⁴

However, for the original motion the following be substituted:

"That in view of the fact that no decision has yet been taken in the matter of the State language and there being no immediate necessity of taking a decision thereon be it resolved that the Question be decided by this Assembly when it comes up before it in due course. "This motion was moved by 41 yes votes to 12 Noes votes."¹⁵

9)Re-Adjustment of the Number of Seats including Minorities in the province of East Bengal

Pirzada Abdus Sattar Abdur Rahman introduced the bill, “further to amend the Government of India Act, 1935 (Amendment of Fifth and Sixth Schedules).”

This Bill is the final installment towards the process of introducing adult franchise in the country and re-adjusting the number of seats in the remaining province of East Bengal. Such legislation was undertaken in this House first in the case of Punjab and then in case of N.W.F.P. and finally in case of Sind and East Bengal was the only Province where this measure of reform was to be introduced.

According to the new census of 1951, the population of East Bengal was as follows:

Total population	4,19,32,329
Muslims	3,22,26,639
General including Caste Hindus	42,27,982
Scheduled castes	50,52,250
Buddhists	3,18,951
Christians	1,06,507

There are some others 'General including Caste Hindus' and they are about 30 thousand. Now the number of seats proposed, works out as follows. In case of Muslims, a population of 1,41,345 has been entitled to one seat and in case of General including Caste Hindus 1,40,933, in case of Scheduled castes 1,40,340, in case of Buddhists 1,59,475 and in case of Christians 1,06,507.¹⁶

Certain seats have been reserved for women, which are in addition to their normal right of exercising the vote in the general seats. That means that for the Muslim seats in general and the general seats, including the Caste Hindus, the Scheduled Castes and every other seat they have got the right to vote and stand as candidates and be elected if they want to do so, but additional seats-extra weightages you may call them-have been given to women.

The Special Seats, which originally belonged to land-holders, Mining, Industry, Commerce, Labor and Universities have been done away with, as was done in the case of other Provinces, so that you have got only a straight election for the seats-for the Muslim seats, for the Scheduled Caste seats, Buddhist seats, Christian seats and the General seats, including the Caste Hindus. It is only for women that special seats have been given.

Finally, the amendment moved which distributed the provincial seats of Bengal as:

Total Seats	309
General Seats	297
Reserved for Scheduled Castes out of General Seats	36
Reserved for Pakistani Christians out of General Seats	01
Reserved for Pakistani Buddhists out of General Seats	02
Seats for Women	
General	12
Reserved for Scheduled Castes	02

10) Recommendations of the Committee on Fundamental Rights of Citizens of Pakistan and on matters Relating to Minorities

Abdur Rab Nishtar presented the recommendations of the Committee on Fundamental Rights of Citizens of Pakistan and on matters Relating to Minorities) to the Assembly. He reported that as far as the safeguards for the minorities are concerned, the Sub -Committee concerned had issued a questionnaire to various people and organizations in the country.¹⁷ The Questionnaire was as follows:

(1) What should be the political safeguards of a minority?

- (a) in the Centre, and
- (b) in the province?

(2) What should be the economic safeguards of a minority?

- (a) In the Centre, and
- (b) In the Province?

(3) What safeguards should be provided for a minority with regard to matters?

- (a) Religious,
- (b) Educational,
- (c) Social and cultural?

(4) What methods are suggested to make the safeguards effective?

(5) Should any of the safeguards be eliminated later, and if so, how, when and under what circumstances?

(6) Any other remarks or suggestions with regard to safeguards for a minority

The views received from the public were circulated to the members of the Sub-Committee in a consolidated form and subsequently, the members of the Sub-Committee made their own suggestions in respect of the various kinds of safeguards in the light of these views. The Sub- Committee, in the first instance, considered the question of the system of electorate and in view of the great importance of the question it decided to refer it to this Committee. The Committee fully discussed the question and came to the conclusion that with a view to ensuring real representation to all communities, particularly the minorities, it should recommend to the Assembly the adoption of the system of separate electorate. Its recommendation on this point is contained in Article I of Part I of

the Annexure. It further decided that, in the interest of expeditious completion of work, the Sub-Committee on Matters relating to Minorities be dissolved and that the work pending before it should be disposed of by this Committee. Accordingly, all matters in the nature of special provisions and safeguards for minorities were considered by this Committee.

Recommendations of the Committee:

The Committee's recommendations are in three parts:

Part I deals with safeguards for minorities.

Part II contains additional Fundamental Rights.

Part III gives additional directive principles of State policy.

PART I

Safeguards for Minorities

The following safeguards should be provided for the minority communities of Pakistan: -

1) Representation in the Legislatures

The minority communities of Pakistan specified below shall be represented in the Central Legislature and the Legislatures of the federating Units of Pakistan through separate electorates for every one of them: Scheduled Castes, Hindus other than Scheduled Castes, Buddhists, and Pakistani Christians including Anglo-Pakistani Christians.

Provided that the question whether any community in view of its small number is or is not entitled to be represented in a particular Legislature and the quantum of representation for such a community is a matter to be determined by the Franchise Committee.

2) Safeguard for language

Any minority residing in the territory of Pakistan or any part thereof having a distinct language, script or culture of its own shall not be prevented from conserving the same.

3) Safeguards in respect of educational institutions

The State shall not, in granting aid to educational institutions, discriminate against any educational institution merely on the ground that it is mainly maintained by a religious minority.

4) Portfolios for Minority Affairs

There shall be a Minister for Minority Affairs both at the Centre and in the provinces to look after the interests of the minorities and to see that the safeguards provided in the Constitution for the minorities are duly observed.

Part II

Fundamental Rights

To the Fundamental Rights already adopted by the Constituent Assembly, the following Articles may be added: -

1. No discrimination in admission to educational institutions

No citizen shall be denied admission into any educational institution wholly maintained. by the State on the ground only of religion, race, or caste:

It provided that nothing in this Article shall prevent the State from making any special provision for the advancement of any socially or educationally backward class of citizens.

2. Safeguard against discrimination of religious institutions in taxes

There shall be no discrimination against any community in the matter of exemption from or concession of taxes granted with respect to religious institutions.

Part III

Directive Principles of State Policy

The following may be provided as Directive Principles of State Policy: -

a) Protection to Places of Worship, etc.

Protection shall be accorded to all duly established places of worship, burial and disposal of the dead.

b) Promotion of Educational and Economic Interests

The State shall promote with special care the educational and economic interests of the backward classes and, in particular, of the Scheduled Castes and the people of the Tribal Areas.

11) The East Bengal Legislative Assembly (Continuance) Bill and the Opposition by the Minority Members

Pirzada Abdus Sattar Abdur Rahman moved the following bill:

"That the Bill to provide for the continuance of the present Legislative Assembly of East Bengal be taken into consideration."

He pointed out that the House is aware that preparations for holding general elections in East Bengal are in hand and actually a Delimitation Committee had been appointed some time back. They submitted their report and after that invited objection. Those objections have been considered by the Committee and their report is shortly awaited. After the report, the procedure will be that according to the constituencies so delimited, electoral rolls will have to be prepared by the Provincial Government, and after the first publication, objections will be invited to the rolls and then finalized in accordance with the rules of the East Bengal Legislative Assembly Elections. Then after that, final publication will be made and nomination papers invited and elections held. This procedure, it is anticipated, will take the elections up to the cold weather, which will mean December or January and in the meanwhile the life of the present Legislature expires on the 14th March this year. The alternative under the Constitution is to let the Assembly get dissolved and let the present Ministry continue as a Care-Taker Government, without the Legislative Assembly, or to apply Section 92 (A) and then hold the elections and have the new Assembly. The present Ministry is functioning and it is

far better if the representatives of the people are also there until the elections are held and the Legislative Assembly keeps functioning. It is no use depriving the people of their representatives functioning when the Ministry is also functioning and it is worse to have 92(A) and do away with the representatives of the people in the Legislature, as well as in the Ministry. Therefore, it is necessary that the life of the present Assembly be extended by one year. One year does not really mean that strictly the Assembly will be carried up to the 14th March, 1954. This is only to cover the time that will be taken in holding the elections, putting the new Legislature in office and the new Ministry functioning. The intention is that as soon as this is completed, the elections are held and the new Legislative Assembly starts functioning, by that time the old Assembly will be dissolved and the new Members will come in. It should not be apprehended that by this it is intended to prolong the holding of the elections even by a day. The normal programme of the elections is being adhered to and this is only to provide representative Legislative Assembly for that period in East Bengal. Therefore, from that point of view, I consider it absolutely necessary that the life of the present Assembly be extended and it should be continued till such time as the elections are held¹⁸.

However, this bill was opposed by Mr. Bhabesh Chandra Nandy (Member from the East Bengal) and others. Mr. Bhabesh said:

"The members of the Bengal Legislative Assembly were elected in 1947. Five years' term expired in 1951, but by various devices extension was given up to 1952. Then again it was extended to 1953 and now it is asked that it should be extended up to 1954. God knows what will happen in March 1954 again. The elections were held at a time when we were not free, when the composition of the people of East Bengal was otherwise, when the political outlook of the nation was otherwise, when the ambitions of the people were different, because the people were under the foreign Government in the country. Under those circumstances, elections were held. Since then, the entire situation has changed the nation is now moving ahead with new ambitions, with new outlook and with a new ideology. Their ambition is to build a nation, their constitution and their future in a new frame. So as a matter of fact, those representatives who were elected at that period have now ceased to have their representative character. Besides that, if you look to the composition of the House, you find that in a House of 170, there are 30 seats vacant. It is surprising to know that in the district of Faridpur where the numbers of Caste Hindus come up to more than 2 lakhs, for the last three years, there is no representative in the Legislative Assembly for those Caste Hindus of the district of Faridpur. This is only one example. This is the position throughout the province. Sir, there are v 30 seats vacant-both Hindus and Muslims. At one time there was a bye-election for a seat in Tangail, Mymensingh where the Government pooled their entire resources and mobilized every ounce of their energy and yet they got a heavy defeat. Since then, like a burnt child dreading fire, they dare not face any bye-elections".

In a House of 170, if 30 seats remain vacant, then imagine how many million people remain unrepresented! The House cannot be called a representative House. The Government in East Bengal has no self-confidence and they do not venture to face any public. We do not know how the situation will ever improve. Besides these 30 seats vacant, 6 Members of the Bengal Legislative Assembly are rotting

in jail because they could not act as docile "yes-men" of the Ministry there. This is the position in which extension of the Legislative Assembly is asked for.³⁰ In a similar manner, Shri Sris Chandra Chattopadhyaya opposed the bill by giving the following arguments:

We have got no authority to extend the life of East Bengal Assembly without amendment of Section 61 of the Government of India Act, 1935. Besides we cannot give life to a dead horse. East Bengal Assembly is dead long ago. At present practically and really there is no legally constituted East Bengal Assembly. The authorities are only usurping that power. It died long ago. Section 61 of the Government of India Act 1935, clause 2, says that every Legislative Assembly of every Province, 'unless sooner dissolved, shall continue for five years from the date appointed for the first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the Assembly. Under Section 6, Assembly goes automatically at the expiration of five years. Here there is no provision of any higher body even to extend the life or postpone the elections after five years. I shall show presently that we have got no power. However, during the War in 1941, an Act was enacted by the British Parliament called the India and Burma Postponement of Election Act. I think there were some provisions there to extend the life during the War period or during the emergency. That power was granted to the authority to postpone the election only during the war period and the definition of the war period is also there. War has ended and therefore that Act is ineffective now.

Now there is no war and as such the life of the East Bengal Assembly cannot be extended by this Assembly and arbitrarily. This is so far as the legal aspect is concerned. As regards propriety, it is simply scandalous. It is a scandalous thing to extend the life of the East Bengal Assembly, my friend Mr. Pirzada says that otherwise there will be no representative body and elections have to be conducted by the Governor. I do not mind if elections are conducted by the Governor or Section 92A is applied or there is a Care-Taker Government because the present Assembly is not a representative body and the people have not any confidence in the present Ministry.³¹

Despite opposition and criticism, the bill was passed and the Bengal Legislative Assembly got extension till March of 1954.

12) The Basic Principles Committee Report and The Reservations of Minorities

The Basic Principles Committee Report was a constitutional draft upon which the actual constitution had to be based. It was an improvement of the constitutional set up as practiced under the Government of India Act of 1935. It curtailed the powers of the Governor-General and delegated those to the Parliament. The draft also reflected the efforts for framing an "Islamic" Constitution. It also ensured the safeguard of the Minorities in the country. Nevertheless, the opposition side (Congress) criticized the report. Prof. Raj Kumar Chakravarty raised his voice in these words:

The whole background of this Constitution-making is based upon the mischievous two-nation theory, the theory that the Muslims are a majority nation and the non-Muslims are a minority nation, that each of them is a separate nation

and the whole Constitution-making at a later stage has proceeded upon that basis. It is said that these Muslims and the non-Muslims can never form a nation, can never form a people and it implies that the Muslims must be the majority nation and the non-Muslims must be the minority nation and the Muslims, a majority nation are superiors and others are inferiors, the majority nation must rule and the minorities must submit. That is the implication of the two-nation theory. Its further implication is that there must be discrimination in favor of the majority nation and against the minority nation, and the whole Constitution has proceeded on that basis in many essential features. Let me illustrate my contention by reference to certain points of this B. P. C. Report.¹⁹

First of all, the name of the State has been the Islamic Republic of Pakistan. If forgot that there is 10 million of non-Muslims still in this land; it forgot that this land belongs equally to the Muslims and the non-Muslims. It has been said that the name does not matter. I submit that it goes to the root of the matter. There are implications of an Islamic State which you can never forget, and if anybody wants to- know the implications of the Islamic State I would draw his attention to the Report of the Punjab Disturbances Inquiry Committee Report where the finding has been given clearly and unequivocally that the non-Muslims can never have equal rights with the Moslems in an Islamic State. Until that book is from Pakistan or that book is burnt, it is not open to anyone to ~tell us, in view of the finding based upon good evidence and, the evidence of the Maulanas, the finding of no less a person than the present Chief Justice of the Federal Court, that there is equality for all. That is discrimination No.1 that has been made in this Constitution discrimination in favor of the " majority nation" and against" the minority nation."

The second type of discrimination stems from the constitutional provision that forbids the creation of any law that contradicts the Quran and the Sunnah—the holy scriptures of Islam. But what consideration, then, is given to the holy books of other communities living in this country? It appears that, in the view of the majority, the scriptures of others either hold no significance or are not to be acknowledged in legislative matters. By declaring the Quran and the Sunnah as the sole foundation and source of all laws, this principle establishes a clear form of inequality. A constitution built on such discrimination cannot truly be described as democratic.

The third form of discrimination concerns the provision that the Head of State must necessarily be a Muslim. Despite the fact that nearly 85 percent of the electorate already belongs to the Muslim community, the Constitution bars anyone who is not a Muslim from contesting for this position. This restriction excludes non-Muslims entirely from eligibility for the highest office in the country, making it a particularly unjust and discouraging form of discrimination—one that, in effect, adds insult to injury.

Another form of discrimination arises from the constitutional clause that mandates the establishment of an Ecclesiastical Department, financed and maintained by the State, to promote and impart the teachings of Islam. This raises an important question: are there not followers of other faiths within this country? Should it not, then, be the responsibility of the Government to provide similar recognition and instruction for the teachings of other religions as well? It seems that, since Islam is the faith of the majority, preference is deliberately given to it—

resulting in clear discrimination in favor of the majority religion and against those of the minorities.

The next instance of discrimination concerns the electoral arrangements for both the Provincial and Central Legislatures. Under this system, the majority community is to have separate electorates, meaning that Muslims are to vote only for Muslim candidates. This implies that the electorate of the majority must remain untouched or uninfluenced by that of non-Muslims. Such an arrangement disregards the voice of the minority communities, ensuring a permanent communal majority for one group and a perpetual minority status for the other within the legislative framework. Consequently, the majority aims to monopolize political power and secure all positions of authority indefinitely, leaving the minority entirely excluded. It is difficult to imagine a more pronounced example of discrimination in favor of one community over another.

Despite the objections and reservations expressed by the minority members, the report was presented in the House on 21 September 1954. It was subsequently adopted with 29 votes in favor and 11 against—the opposing votes all coming from minority representatives, including Mr. Prem Hari Barma, Prof. Raj Kumar Chakravarty, Shri Sris Chandra Chattopadhyaya, Mr. Akshay Kumar Das, Shri Dharendra Nath Datta, Shri Bhupendra Kumar Datta, Shri Kamini Kumar Datta, Mr. Jnanendra Chandra Majumdar, Mr. Birat Chandra Mandal, Shri Dhananjay Roy, and Seth Sukhdev.²⁰

Conclusion

At the time of Partition in 1947, non-Muslims made up nearly 23 percent of Pakistan's population. Naturally, these minority communities were concerned about their rights and status within a Muslim-majority state. Quaid-i-Azam, however, assured them that they would enjoy full equality of citizenship alongside the Muslim population. On 12 August 1947, the Assembly established a special body called the Committee on Fundamental Rights of Citizens and Matters Relating to Minorities of Pakistan, tasked with advising on fundamental rights—especially those of minority groups—and helping frame appropriate legislation. The Objectives Resolution later reinforced these assurances by including provisions for minority rights within the framework of the future constitution. The Basic Principles Committee also worked to uphold and protect these rights. While its report faced notable objections and reservations from minority representatives, it was still significant for recognizing the socio-political and religious rights of minority communities. Sadly, the first Constituent Assembly could not finalize the Constitution, as it was dissolved by Governor-General Malik Ghulam Muhammad in October 1954.

References

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- ¹ Constituent Assembly, Quaid-i-Azam Muhammad Ali Jinnah, "President's Address," 1st Constituent Assembly, 1st Session, Constituent Assembly of Pakistan Debates (11 August, 1947), 19-20.
 - ² Constituent Assembly, Liaquat Ali Khan, "Election of Temporary Chairman," 1st Constituent Assembly, 1st Session, Constituent Assembly of Pakistan Debates (10 August, 1947), 1.
 - ³ Constituent Assembly, Jogendra Nath Mandal, "Chairman Inaugural Speech," 1st Constituent Assembly, 1st Session, Constituent Assembly of Pakistan Debates (10 August, 1947), 2.
 - ⁴ Constituent Assembly, Quaid-i-Azam Muhammad Ali Jinnah, "President's Address," 1st Constituent Assembly, 1st Session, Constituent Assembly of Pakistan Debates (11 August, 1947), 19-20.
 - ⁵ Constituent Assembly, Liaquat Ali Khan, "Resolution: National Flag of the Federation of Pakistan," 1st Constituent Assembly, 1st Session, Constituent Assembly of Pakistan Debates (11 August, 1947), 21.
 - ⁶ Ibid, 29.
 - ⁷ Constituent Assembly, Liaquat Ali Khan, "Motion: Aims and Objects of the Constitution," 1st Constituent Assembly, 5th Session, Constituent Assembly of Pakistan Debates (12th March, 1949), 100.
 - ⁸ Constituent Assembly, Shri Sris Chandra Chattopadhyaya, "Condolences on the Demise of Maulana Shabbir Ahmed Usmani," 1st Constituent Assembly, 6th Session, Constituent Assembly of Pakistan Debates (22 December, 1949), 2.
 - ⁹ Constituent Assembly, Abdul Hamid, "The Interim Report of the Committee on Fundamental Rights and on Matters Relating to Minorities," 1st Constituent Assembly, 8th Session, Constituent Assembly of Pakistan Debates (6th October, 1950), 145.
 - ¹⁰ Constituent Assembly, Nurul Amin, "Motion: Bengali being one of the State Languages," 1st Constituent Assembly, 11th Session, Constituent Assembly of Pakistan Debates (10th April, 1952), 22.
 - ¹² Constituent Assembly, Raj Kumar Chakravarty, "Motion: Bengali being one of the State Languages," 1st Constituent Assembly, 11th Session, Constituent Assembly of Pakistan Debates (10th April, 1952), 23.
 - ¹³ Ibid, Shri Kamini Kumar Dutta, 27-28
 - ¹⁴ Ibid, Shri Sris Chandra Chattopadhyaya, 41.
 - ¹⁵ Ibid, Abdul Hamid (President of the Assembly), 46-48.
 - ¹⁶ Constituent Assembly, Pirzada Abdus Sattar Abdur Rahman, "The Government of India 1935 (Third Amendment) Bill (Amendment of Fifth and Sixth Schedules)," 1st Constituent Assembly, 11th Session, Constituent Assembly of Pakistan Debates (10th April, 1952), 47-48.
 - ¹⁷ Constituent Assembly, Abdur Rab Nishtar, "Report of the Committee on Fundamental Rights of Citizens of Pakistan and on Matters Relating to Minorities," 1st Constituent Assembly, 12th Session, Constituent Assembly of Pakistan Debates (22nd December, 1952), 63.
 - ¹⁸ Constituent Assembly, Pirzada Abdus Sattar Abdur Rahman, "The East Bengal Legislative Assembly (Continuance) Bill," 1st Constituent Assembly, 13th Session, Constituent Assembly of Pakistan Debates (9th March, 1953), 3-4.
 - ¹⁹ Constituent Assembly, Prof. Raj Kumar Chakravarty, "Report of the Basic Principles Committee," 1st Constituent Assembly, 16th Session, Constituent Assembly of Pakistan Debates (21st September, 1954), 505.

²⁰ Constituent Assembly, Tamizuddin Khan (President of the House), “Report of the Basic Principles Committee,” 1st Constituent Assembly, 16th Session, Constituent Assembly of Pakistan Debates (21st September, 1954), 571.