

## **ISLAMIC PROVISIONS UNDER CONSTITUTION OF 1973: AN ANALYSIS OF THE ISLAMIZATION BY ZULFIKAR ALI BHUTTO**

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### **Abstract**

Pakistan came into existence as an Islamic country on the world's map on 14 August 1947 after many hardships during freedom Movement. The freedom Movement, guided by Jinnah, came to the final stage of success on August 14, 1947, with the results of creation of Pakistan, a state for the Muslims of subcontinent. Pakistan was gotten on the basis of Islam, so after independence it was clear and loud that Pakistan would be an Islamic state because the slogan which was used in freedom Movement was "Pakistan ka Matlab Kya; La Ilaha illallah." The main motive of this slogan was that Pakistan would be a state where Islamic values and principles would be implemented, and its constitution would be Islamic under which the Muslims of Pakistan could live according to the Islam. The first Constitution of 1956 and 1962 didn't meet the Islamic requirements. The constitution of 1973 is regarded as landmark in the Lawmaking history of Pakistan. Pakistan was given a title as Islamic republic of Pakistan. It declared Islam as a "state religion", and it also provides protection to the "haqqada e khtm e nabuwat". The constitution contains many other Islamic provisions that helped in strengthen the process of islamization in Pakistan. The current study is qualitative in nature based on primary and secondary sources. The descriptive and

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*analytical approaching is being used. The chief purpose of this study is to find out, investigate and analyze the causes and impact of the Islamic Provisions of constitution of 1973.*

*Keywords: Pakistan, Constitutional Provisions, Zulfikar Ali Bhutto, Islamization, Constitution of 1973.*

### **INTRODUCTION**

*Pakistan got independence as an Islamic country on 14 August 1947 after many hardships during freedom Movement<sup>1</sup>. The freedom Movement guided by Jinnah, came to its final stage of success on August 14, 1947, with the results of creation of Pakistan, a state for the Muslims of subcontinent but the "Islamic republic of Pakistan" was came into being on 23 March 1956 after enforcement of first constitution of Pakistan under the rule of Iskandar Mirza as a first president of Pakistan<sup>2</sup>. Pakistan was gotten on the basis of Islam, so after indepdance it was clear and loud that Pakistan would be an Islamic state constitionally as well as socially, because the slogan which was used in freedom Movement was "Pakistan ka Matlab Kya: La Ilaha illallah". The main motive of this slogan was that Pakistan would be a state where Islamic values and principles would be implemented, and its constitution would be Islamic under which the Muslims of Pakistan could live their lives according to the teachings of Islam. The one more thing which indicated the Islamic constitution was 97 percent population of newborn state<sup>3</sup>. Therefore, after indepdance the debate continued that what type of constitution should adopted in Pakistan. Some secular minded were in favor of secularism, according to them religion should be one's Private thing and it should be out from State affairs while on the other hand conservatives were deep supporter of an Islamic constitution for Pakistan. This debate was won by conservatives and objectives resolution was passed by the constituent Assembly on 12 March 1949<sup>4</sup>. It was proof that the constitution of Pakistan would be based on the Islamic principles. This was the great achievement in the context of Islamizing the constitution of Pakistan<sup>5</sup>.*

*The first constitution of Pakistan was enforced on 23 March 1956 after struggle and efforts of 9 years of getting independence. According to the constitution of 1956 Pakistan was declared as "Islamic Republic". The objective Resolution was added as a preamble in the constitution. This constitution guaranteed the sovereignty of Allah over entire universe<sup>6</sup>. It was stated in the article 198 that there would not be any legislation against the Islam and those laws which are against or repugnant to Islam must be amended and should be modified accordingly to the Islam. The constitution of Pakistan should enable Muslims to live their lives according to the way of Islam, both individually and collectively as well. Teachings of Islam were made compulsory, preservation of Islamic culture was also ensured. The head of State was required to be Muslim citizen of Pakistan. The Islamic provisions were not*

applicable to non-Muslim citizens<sup>7</sup>. The constitution of 1956 proved short lived. It was abrogated after 2.5 years by President Iskandar Mirza. He used political instability as a tool for the imposition of Martial law<sup>8</sup>. On twenty-seven October 1958, Ayyub Khan took over the control of country from Iskandar Mirza was sent to exile<sup>9</sup>. After assuming the political power of Pakistan as a CMLA, General Ayoub Khan gave the second constitution to the country. This constitution had start working from June 8, 1962. This constitution was presidential in nature. This constitution was having Islamic provisions in liberal language. The Islamic provisions of 1972 were reproduced in 1962's constitution with some modifications<sup>10</sup>. Initially it declared Pakistan as "Republic of Pakistan" but after protest the word "Islamic" was added through amendment in 1963<sup>11</sup>. The constitution of 1962 had reflected the liberal understanding of Islam by Ayoub khan<sup>12</sup>. The constitution of 1962 lasted till 1969, when Yahya Khan abrogated it on 25 March 1969. From 1969 to 20 December 1971, this period is known as period of more uncertainty<sup>13</sup>. The elections of 1970 were announced by Yahya Khan under LFO. Elections were held in the month of December. The aftermath of these Elections resulted in the Dismemberment of Pakistan in the mid of December 1971 (16 December). Due to pressure from colleagues and public, Yahya Khan re-signed, and Zulfiqar Ali Bhutto became first Civil Martial law Administrator on 20th December, right after 4 days of debacle of East wing of Pakistan<sup>14</sup>

Z A Bhutto gave the third and current constitution to Pakistan which is commonly known as the constitution of 1973<sup>15</sup>. It was enforced on 14 August 1973. This constitution was based on the social and Islamic character. The constitution of 1973 had provided parliamentary system of government with Islam as a "State religion". The constitution of 1973, which is also the current constitution of Pakistan, is more Islamic as compared to the two previous constitutions. As Pakistan was gain on the Name of Islam and its ideology was two Nation theory, which means Hindu and Muslim are two different Nations according to every definition of the world. The core objective behind the Pakistan Movement and Creation of Pakistan was to win or acquire a separate homeland where Muslim could practice their religion Islam freely and fearlessly. A country where they could live theirs individual and social life according to the teachings and principles of Islam. Along with Muslim citizens the minority population could also live their lives according to their wishes without any fear from Muslim majority<sup>16</sup>

These needs and demands were made part of the constitution of 1973 as first time Islam was declared as State religion. Many Islamic provisions were added in the constitution that helps Muslim to live their individual and collective life according to their religion. Finality of Prophet hood is the core beliefs in Islam, without having Faith in finality of Brotherhood no one can be Muslim. Keeping this core issue in the

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*mind the constitution of Pakistan was amended in 1974 and it was added in the constitution that one who do not "believe in the finality of prophet Muhammad SAW" he can not be Muslim according to the constitution of Pakistan. After this amendment Qadiani were declared as non-Muslim<sup>17</sup>. The constitution of Pakistan has All the basic provisions that Every Islamic constitution had. On one side it enables Muslims to live their lives according to Islam and other side it's guarantee basic and fundamental rights of minorities. The implementation of these provisions is not up to the mark, the efforts are required to make these provisions practical.*

### **REVIEW OF LITERATURE**

*The current research topic "Islamization in Pakistan: An analysis of Islamic provisions of constitution of 1973" is an attempt to analyze the Islamic provisions of the constitution and to make a critical conclusion that whether these are according to the principles of Islam or not? And how they are making Pakistan an Islamic country? As the constitution is an important for a country. as Pakistan is an Islamic country so the makers of the constitution had tried their best to adopt Islamic provisions. There is a lot of work available on the constitution but on current research topics, there is a lack of knowledge and data. The information or material about the current topic is not easily accessible in libraries, books or articles. So, this research is an attempt to find out data about this particular aspect through both primary and secondary sources to fill the knowledge gap about this Topic.*

*Khan, H. Political and Constitutional History of Pakistan. (Karachi: 2017) in his book comprehensively gives details of political and constitutional history of Pakistan till its independence. His book covers the whole political and constitutional development in Pakistan. Hamid khan said that the Constitution of 1973 was Islamic in its nature and its Islamic provisions make it a balanced Constitution as the Islamic aspect of the Constitution is concerned. The Constitution of 1973 makes Pakistan an Islamic state before this Constitution Islam was not declared as an official religion of the State. The Author focused on explaining the political and constitutional history of Pakistan but as this topic is only related to the constitution of 1973 so that there is need of more explanation about the constitution, he doesn't throw enough lights on the importance of Islamic portion of the Constitution.*

*Talbot, I. Pakistan: A Modern History. (London: 1998) in his book wrote about Pakistani politics from first day of freedom and stated that Pakistan is a country where everything is unpredictable, and this unpredictability has caused many political and constitutional issues for the newborn state. He stated that during the period of first 50 years Pakistan has changed politically and socially. He said that lack of masses empowerment has resulted in political instability in the country. On commenting the constitution of Pakistan, he stated that the constitution of 1973 was enforced after*

consensus but still there were some objections by different sects of society. The Islamic provisions of the constitution were stricter and more Islamic because non-Muslims couldn't be the head of State or head of any government. Ian Talbot expertly raises the issues and problems of Pakistani politics, but he didn't give much importance to the role of Islam in the constitution of Pakistan.

Mujahid, F. *Islam, and Pakistan's Political Culture*. (New York: 2017) In his book talks about constitutional development in Pakistan. He stated that Islam played an important role in the creation of Pakistan so after independence constitution based on Islamic values was needed for an Islamic country. He stated that constitution of 1973 on one hand declares Pakistan as an Islamic state while on the other hand through article 15 guaranteed fundamental rights of freedom of expression and speech. In this way this constitution creates a balance between liberal and conservative part of the Pakistani society. On one hand the Islamic provision of constitution promotes the Islamic character while on the other hand article 15 provides fundamental and basic Rights to every citizen irrespective of religion, race, colour or caste. He appreciates the efforts of constitution making body to create balance amongst different sects of Pakistani society. Author has presented the constitutional development of Pakistan.

Paul, W. "Islam and constitution of Pakistan". *World Affair*. (1962) talked about Islam and the Constitution of Pakistan. He stated that Islam is a complete code of Life, and it guides Muslim in every way of life, from birth to death. Pakistani people don't insulate their life from their iman. That's why they have brought Islam into their constitution as well. Islam guides them in every sphere of life. Islam guarantees minorities' rights. According to the Muslim Islam is their Constitution. It was always tried by the Muslims to make the constitution according to Islam so that the people could get instructions for their daily life by the constitution of that country. So how it is possible that their state constitution doesn't have Islam as its part. Welty has talked about Islam and constitution in his research journal, but he had not discussed the Islamic provisions of Constitution of 1973. In the current research topic, it is tried to fix the existing knowledge gap.

Zakaria, R. "Islam and Constitution" published in *Dawn*, (December 3, 2014) States that Islam and Constitution enjoy popularity in Muslim World. The politics based on Islam in most of the Muslim world. They make special arrangements in order to Islamize their constitution. In the country Pakistan it has been tried by all the governments to make the constitution regarding the Islam as the first priority. In Pakistan this has been an issue for many decades that what should be the role of Islam in politics or in simple in constitution of Pakistan. Pakistan has been successful in this case as to Islamize its constitution. Pakistani constitution based on faith, equality of citizen, protections of minorities and social justice because these all are principles of Islamic teachings. The author has discussed only the Islamic provisions of

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*constitution and neglected their importance.*

*Mustafa, G & Ahmed, T. "Minorities of Pakistan: An analytical analysis of 1973 constitution of Islamic Republic of Pakistan". Pakistan Social Sciences Review. published in (2020) talks about minorities rights under the constitution of 1973. In their work they critically analyze the provisions relating to the minorities rights and also check implementation of these provisions to safeguard the rights of minorities of Pakistan under prevailing constitution. They stated that constitution is not against the minority's rights, and it is according to the human Rights charter of UNO. The constitution of Pakistan guaranteed the protection of minorities right, but implementation is not according to the constitution. There is difference between theory and practical. Ghulam Mustafa and his co author limited their work to the minorities only.*

*Rabbi, F. "Analysis of constitution of 1973". Tahdib Al Afkar. (2018) critically analyse the constitution of 1973 and stated that constitution of 1973 is not only a document to run the affairs of country, but it also enables the Muslims of the state to live their lives individually as well as collectively according to the "teachings of Quran and Sunnah of Holy prophet Muhammad peace be upon him". He further state that the constitution of 1973 is more Islamic and have more Islamic Provisions as compared to the two previous constitutions of Pakistan (I, e. Constitution of 1956 and 1962). As this constitution was made to meet the needs of the time related to the Islam. The constitution of 1973 promotes the good activities and prohibits the anti Islam or anti Cultural activities. the author only focused on the analysis of the constitution of 1973 so that he did not explain those in detail, so in the current research it is tried to fix this gap.*

*Mujahid in his book Islam and Pakistan's Political Culture. (New York: 2015) In his book talks about constitutional development in Pakistan. He stated that Islam played a vital role in the creation of Pakistan so after independence constitution bases on Islamic values was need for an Islamic country. He stated that constitution of 1973 on one hand declare Pakistan as an Islamic state while on the other hand through article 15 guaranteed fundamental rights of freedom of expression and speech. In this way this constitution creates a balance between liberal and conservative part of the pakistani society. On one hand the Islamic provision of constitution promotes the Islamic character while on the other hand article 15 provides fundamental and basic Rights to every citizen irrespective of religion, race, colour or caste. He appreciates the efforts of constitution making body to create balance amongst different sects of Pakistani society. Author has presented the constitutional development of Pakistan in a very nice manner, but he didn't throw lights on the outcomes of Islamic provisions in the society of Pakistan.*

Ali, C.M. in the book *Pakistan: Tareekh, Jmhouriyat, siyasat, aain*. (Lahore: 1993) writes about political events in Pakistan from 1947 to 1990. He is of the views that the Islamic portion of the constitution was to counter the religious parties because these political parties or religious person at that time considered Bhutto a secular person. In order to counter this Z a Bhutto included more Islamic Provisions in the constitution of 1973 to stable his position. As it has been said that the constitution of 1973 was more Islamic then to the comparison of other two. in this book the author only focused on the political events instead of making of constitution.

Ahmed, I. in his article "Minorities of Pakistan: An analytical analysis constitution of Islamic Republic of Pakistan". *Social Sciences Review* published in (2018) talks about minorities rights under the constitution of 1973. In their work they critically analyze the provisions relating to the minorities rights and also check implementation of these provisions to safeguard the rights of minorities of Pakistan under prevailing constitution. Minorities faced issues in their country so that they demand a constitution based on their rights. They stated that constitution is not against the minority's rights, and it is according to the human Rights charter of UNO. I see minority of any country are the important part of that country it is tried by the government of the country to make Laws and constitution regarding to the needs and rights of minorities. The constitution of Pakistan guaranteed the protection of minorities right, but implementation is not according to the constitution. In this article the author focused on because dictation of 1973 and its Islamic provisions regarding to the needs of the minorities of Pakistan. The current research topic is related today of Pakistan and the analysis of those provisions so there is no need to explain the needs of minorities in it. The main focus of this research is to analyze Islamic provision of the constitution of 1973.

The above cited literature on the topic "Islamization in Pakistan: Analysis of Islamic provision of constitution of 1973". there are a lot of knowledge available on library and in many books, but it was not enough to explain my topic. many writers had tried their best to explain the constitution of Pakistan and its Islamic provision but in the current research topic it is tried to analyze the Islamic provision of the constitution of 1973. the main purpose of this research is to not only focus on the Islamic provision but to analyze that weather these provisions was implemented as it is, or a lot of work remained regarding the implementation of the provision of Islamic constitution of 1973. all the mentioned books and articles were enough to explain the Islamic provisions and the constitution of 1973 in detail but there is a need of to do an analysis on the Islamic provision of the current constitution for the purpose to know that whether these Islamic provisions are enough for the Islamic Republic of Pakistan or there is a need to introduce more for the purpose to provide peace to the citizens of Pakistan, or these Islamic provisions were adopted as it is or just written in the

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constitution as a document to legalize the country as an Islamic state. the current study will not only explain the Islamic provision, but it also analyzes the role of Islamic provision in the constitution history of Pakistan. the current research topic will not only fix the existing research gap but it also provide new knowledge in the ocean of study.

### **ISLAMIZATION IN PAKISTAN: AN OVERVIEW**

In order to have a look on the Islamization process it is necessary to know about the term islamization that what is Islamization? it is defined as "society's shift towards Islam" 18 or "implementation of laws is Sharia or Islam"19. Hence it can be concluded from above two definitions that Islamization is the process in which laws of Sharia or simply basic Islamic laws are implanted in a society in order to shift the society towards pure Islamic society. It is quite clear without any doubt that the main objective behind the creation of Pakistan was to obtain a country where Muslim could practice their religion Islam without any difficulty20. Once Quaid-e-Azam Muhammad Ali Jinnah stated that our demand of Pakistan in not only for piece of land, but it is demand for a laboratory where Islamic principles could be practiced. It was a clear sign that Pakistan would be an Islamic country having Islamic constitution21

After indepdance the first step taken towards was objectives resolution. It was passed on 12 March 1948. This Resolution has great important in the process of Islamization in Pakistan. This provided the guidelines for the upcoming constitution of Pakistan. It served as a preamble of constitutions. It provided the sovereignty of Allah over entire universe22. It also provided the Provisions which were considered very important as islamization is concerned. It also guarded the minorities Rights23 So it can be concluded that the objectives Resolution was a first step towards Islamic republic of Pakistan24. After seven years of objectives Resolution first constitution of Pakistan was enforced on 23 March 1956 after struggle and efforts of 9 years of getting independence. In the Constitution of 1956 Pakistan was declared as "Islamic Republic".

The objective Resolution was added as a preamble in the constitution25. This constitution guaranteed the sovereignty of Allah over entire universe. It was stated in the article 198 that there would not be any legislation against the Islam and those laws which are against or repugnant to Islam must be amended and should be modified accordingly to the Islam. The constitution of Pakistan should enable Muslims to live their "lives according to the way of Islam, both individually and collectively" as well. Teachings of Islam were made compulsory, preservation of Islamic culture was also ensured. The head of State was required to be Muslim citizen of Pakistan. The Islamic provisions were not applicable to non-Muslim citizens26.



This constitution of 1962 was having Islamic provisions in liberal language. The Islamic provisions of 1956 were reproduced in 1962's constitution with some modifications<sup>27</sup>. Initially it declared Pakistan as "Republic of Pakistan" but after protest the word "Islamic" was added through amendment in 1963<sup>28</sup>. The constitution of 1962 had reflected the liberal understanding of Islam by Ayoub Khan<sup>29</sup>. The constitution of 1962 lasted till 1969, when Yahya Khan abrogated it on 25 March 1969. From 1969 to 20 December 1971, this period is known as period of more uncertainty. The elections of 1970 were announced by Yahya Khan under LFO. Elections were held in the month of December. The aftermath of these Elections resulted in the Dismemberment of Pakistan in the mid of December 1971 (16 December). Due to pressure from colleagues and public, Yahya Khan re-signed, and Zulfikar Ali Bhutto became first Civil Martial law Administrator on 20th December, right after 4 days of debacle of East wing of Pakistan<sup>30</sup>.

The third constitution of Pakistan was enforced on 14 August 1973. This constitution was based on the social and Islamic character. The constitution of 1973 had provided parliamentary system of government with Islam as a State religion. The constitution of 1973, which is also the current constitution of Pakistan, is more Islamic as compared to the two previous constitutions<sup>31</sup>. As Pakistan was gain on the Name of Islam and its ideology was two Nation theory, which means Hindu and Muslim are two different Nations according to every definition of the world. The core objective behind the Pakistan Movement and Creation of Pakistan was to win or acquire a separate homeland where Muslim could practice their religion Islam freely and fearlessly. A country where they could live their individual and social life according to the teachings and principles of Islam. Along with Muslim citizens the minority population could also live their lives according to their wishes without any fear from Muslim majority. After Bhutto, Zia ul haq came into the power, He imposed Martial law and brace CMLA of the country. Zia used the slogan of islamization. He introduced Hudood ordinance, he established Majlis e Shura, he established Federal Sharia Courts, Islamic ideology council were also setup during his tenure. Namaz, zakat and auqaf ordinance, aetram e Ramzan ordinance was published. He tried to Islamize the judicial system of Pakistan. Usury free Islamic banking was first started during Zia period. In addition to these many more steps were taken by Zia to Islamize the pakistani society and to strengthen his chair. He used the slogan of islamization in his favor and due to lack of research and improper homework the acquired results were not received<sup>32</sup>. During the tenure of Benazir Bhutto as a prime minister "Enforcement of Sharia Act 1991" was passed from national assembly in order to implement Sharia in the country<sup>33</sup>.

The main objective of this act was to Islamize the laws. Under this act it was decided to educate the public islamically and make the country a pure Islamic State. It

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*declared the Sharia as a supreme law<sup>34</sup>. This bill was in national Assembly for adaptation but at the same time the national assembly was dissolved, and this act also became invalid. In 1997 Nawaz Sharif came into power and he also took steps for islamization and enforcement of Sharia in its real sense. Through fifteenth amendment in the constitution of 1973 Shariat bill was launched. This bill promoted the Islamic values in the country and prohibited the anti-Islamic activities<sup>35</sup>. This bill was also passes by the National Assembly but was not send to Senate because in Senate Nawaz Sharif didn't have two third majority that can't pass this amendment. He stated that it should be sole right of provinces to enforce Sharia in respective provinces<sup>36</sup> This was the brief history of process of islamization in Pakistan.*

### **CONSTITUTION OF 1973: AN ANALYSIS OF ITS ISLAMIC PROVISIONS**

*The constitution of 1973 was third constitution of Pakistan within the period of 25 years after indepdance. It was passed by national Assembly on 10 April and approved by president on 12 April. The third constitution was enforced on 14 August 1973<sup>37</sup>. The constitution of 1973 is the current constitution of Pakistan. It declared Pakistan a federation having four provinces. It provided the parliamentary form of government with "Prime Minister as a chief executive of the government". legislature is Bicameral, upper house as a Senate and lower house as a National Assembly. It also provided the basic Rights to the citizens. It guaranteed free judiciary, independent Electoral system, emergency provisions and it also provides president as a head of the State. The constitution of 1973 came into existence after consensus of political parties at that time under Bhutto regime. The credit of formation of constitution goes to late Z a Bhutto. The constitution of 1973 has some new and unique Islamic provisions which were missing in previous constitutions. It makes Pakistan an "Islamic republic"<sup>38</sup>.*

### **PROVISIONS RELATED TO RELIGION IN 1973 CONSTITUTION AND ANALYSIS**

*Article 1 declared Pakistan, an "Islamic republic". The name of Pakistan according to the article 1, is the "Islamic Republic of Pakistan". Pakistan came into existence in the name of Islam, so it must have had word Islam in its official name so that everyone can easily be informed hat Pakistan is an Islamic State<sup>39</sup>. So, this was a good step to add word "Islamic" in the official name of country. Article 2 of the constitution was a new and unique, in a sense that first time Islam was declared as a "state religion"<sup>40</sup>. As ideology of Pakistan based on Islam so in the constitution of 1973 Islam was declared as an official religion of Pakistan. This article is the justification of the two-nation theory which became the core cause of creation of Pakistan. This article was appreciated by the Muslim population of the State. Article 2A includes the objective Resolution, as a part of all the constitutions which provides*

sovereignty of Allah and authority of exercising governmental power as a "sacred trust" through chosen representative<sup>41</sup>.

It guarantees principle of Democracy, freedom, equality, political justice, social economic announced by Islam, and these shall be fully observed. It also provides fundamental rights. It makes sure the freedom of religion, faith and believes. It also protects the minorities rights. Minorities are allowed to practice their religion. Article 2(A) has great importance as for as the Islamic provisions of the constitution are concerned because it deals with the objectives Resolution which became part of constitution in 1985<sup>42</sup>. Its present Islamic image of the constitution. Objectives resolution has significant values in the constitution of Pakistan. It gives constitution an Islamic outlook. It covers the major provisions which are considered as main Skelton of an Islamic social system. Although this Resolution is the part of constitution but still implementation of its Provisions is not upto the mark. In Pakistan there is lack of Fair play, justice and many social values due to the improper implementation of constitution. As it guaranteed the Rights of minority population but still there are many challenges and difficulties to the minorities specially in the religious sphere. Minorities are facing many challenges and it is the need of time and responsibility of State to provide remedies<sup>43</sup>.

In 1974 through second amendment articles 106 and 260 were amended. Through amendment in article 106, Qadiyani were declared as non-Muslim. Through amendment in article 260 first time word "Muslim" was defined in the constitution. According to this amendment one who don't believe in the finality of Prophet hood of Muhammad SAW is not Muslim according to the constitution of Pakistan. After the effects of second amendment Qadiyani or mirzai were declared as Non-Muslim<sup>44</sup>, because they don't believe in the finality of Prophet hood of Hazrat Muhammad SAW<sup>45</sup>. The second amendment is the most significant and beautiful event in the constitutional history of Pakistan. It is one of the great achievements towards islamization in Pakistan and for the protection of Haqqeda e Khatm e Nabuwat<sup>46</sup>. This act was highly appreciated by the public during Bhutto regime. Article 20 in chapter one of the constitution stated that "every citizen shall have the right to profess, practice and propagate his religion and every sect have the right to establish, maintain and manage it's religious institutions"<sup>47</sup>. The article gives freedom to the religion. Anyone belonging to any religion can practice his/her religion and can spread his or her religion. The constitution also give right to build and maintain the religious buildings. Contrary to the constitution there are many problems and threat to the religious institutions of minorities like temple, mandar etc. It is the responsibility of the government to ensure the protection of these places by implementation of this provisions of constitution. It is also presenting bad image of Pakistan abroad<sup>48</sup>.

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Article 21 protect from taxation for religious affairs of someone else's religion and article 22 no institutions can bound someone to get religious education of any others religion and also no institution can be prohibited from teaching religion<sup>49</sup>. These two articles further elaborate the religion freedom. Under these two articles every one is free in religious matters. No one can be bound to get religious education of other religions. Minorities in Pakistan are not bound to get Islamic education by Force and vice versa<sup>50</sup>. Article 26 tells that in Pakistan you have access to every public place irrespective of your caste, religion or color<sup>51</sup>. This is the fundamental right in the constitution that Everyone can go from trip or for any other reason to the public place. Article 27 protect from discrimination in services.

Article 31 in chapter 2 is related to the Islamic way of life. Para 1 of this article stated that it would be ensured to enable the Muslim population of Pakistan to live their lives alone and collectively according to the teachings of Islam, as given in the Holy Quran and sunnah<sup>52</sup>. To provide the facilities in this regard is the duty of state. Under this article the Muslims would be assisted in order to live theirs lives according to the Islamic way. Although this article bound State to take steps for the implementation of Islam in the society as well in personal's life but still State is not assisting society in this regard. Paragraph 2 of article 31 makes the education of Quran and Islamiat compulsory<sup>53</sup>. As Quran is in Arabic language therefore to have a good understanding of Quran and Islamic instructions it is the duty of State to facilitate the public to understand Arabic language. Under this Provision to get the education of Quran and Islamiat is compulsory for the Muslims. And it would be taught in schools, colleges and universities. The error free publishing and printing of the Holy Quran is the duty of State under article 31<sup>54</sup>. This article also provides unity and observance of Islamic moral values. Zakat usher and auqaf and mosque's organization is also included in the constitution. These shall be the duties of state to make arrangements for the above-mentioned elements. The article 31 with two Paras makes Islamic studies and education of Quran compulsory and it shall be taught in schools, colleges and universities. This article is most important in propagating and implementation of Islam in Pakistan because without the education of Quran and sunna, society can't know about the real teachings of Islam and error free printing and publishing of Qur'an is also very important.

Article 36 provides the protection to the minorities and also makes sure their representation in the services federal and provincial governments<sup>55</sup>. The constitution of Pakistan gives equal rights to the minorities in every Field of life without any discrimination. In Pakistan Christian and Hindus are major religious minorities with small percentage of other minorities as well like Ahmadi, Parsi etc. The constitution of Pakistan provides protection to the minorities, their Rights, religion and worship

places but still there is lack of implementation due to which in Pakistan, they are facing many challenges especially Hindu minority<sup>56</sup>. Ribah or usury is a social evil, and it is against the economic system of Islam. Pakistan being an Islamic society and having Islam as an official religion, strictly prohibits the Ribah under article 38 of the constitution<sup>57</sup>. It stated that as soon as possible it should be eliminated from economic system. The efforts have been made to eliminate riba but still Pakistan's economy is in its grab. Recently Federal shariah Court has order government to redicate this by 2027<sup>58</sup>.

Article 40 provides brotherly relations with Muslim world and steps should taken for international peace and prosperity. According to the constitution of Pakistan it must have cordial relations between Muslim world but still there are some Muslim countries that haven't good bilateral relations. Article 41(2) and article 62 stated that president and prime minister of Pakistan must be Muslim. Non-Muslim can't be a president or prime Minister<sup>59</sup>. As Pakistan is an Islamic country with Islam as a "state religion" so, it must've Muslim Head of state and Head of government (President and Prime Minister). It would be against the nature that an Islamic country has non-Muslim head of state or government. So, keeping it in the mind the framer of constitution had added these articles in the constitution which guaranteed that Head of the state and Head of the Federal government should be Muslim. According to the Article 62 (d) & (e) Member of Parliament must have knowledge about Islam and he must haven't involved in any sin and haven't violated the Islamic values<sup>60</sup>. These are some conditions for the member of Parliament, it means he or she must be a pious and Noble citizen.

## **FEDERAL SHARIAH COURT UNDER 1973 CONSTITUTION**

Article 203c provides establishment of Federal Sharia Court. It is consisting of 8 Muslims judge including chief justice, appointed by the President. This court was established to Islamize the existing laws. Article 203D provides that Shariah Court would inspect the existing laws whether they are according to the Islam or different form it. The Sharia Court can examine the existing laws by itself, by the petition of any citizen or request of Federal or provincial governments. The court would only investigate the laws to check whether they are according to the instructions of Islam as laid down in the holy Quran and Sunnah of Prophet Muhammad SAW<sup>61</sup>. After examine Sharia Court would send its recommendation to the concerned body, i.e., president or Governor of the province to amend the law according to the Islam<sup>62</sup>. The important thing to be mentioned here is that this court only can recommend suggestions and can mark the points which are repugnant to Islam, I can't amend itself. The federal Sharia court is a constitutional checking body and only suggest amendment.

The Article 227 specified that all the existing laws shall brought in

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conventionality with the teachings of islamyat laid down in the Holy Quran and Sunnah of Prophet Muhammad SAW and no law shall be made that would be offensive to Islam in future. As some provisions were adopted from previous constitutions so to make them accordance with Islam article 227 was added. To make the existing law according to the Islam Islamic council was provided under article 228 of the constitution. The function of Islamic council is to suggest recommendations to the Parliament in order to enables the Muslim to live their lives individuals and as a whole according to the Islam. It also advises Parliament to make amendment if any law is contrary to Islam<sup>63</sup>

### **CONCLUSION**

As it is quite clear that the ideology of Pakistan is based on Islam. This great country knows as Islamic republic of Pakistan was obtained for the Muslim where they could live their lives according to their religion Islam, for the running of the state affairs the three constitution was adopted from 1956 to 1973. The enforcement of this constitution was a landmark event in the constitutional history of Pakistan and a great achievement of Zulfikar Ali Bhutto's government. The constitution of 1973 has 280 articles, 7 schedule. It was enforced on 14 August 1973 as the third "constitution of Pakistan". The two previous constitutions (1956, 1962) were abrogated and furthermore these two haven't significant Islamic provisions in the constitution, being an Islamic country, which must be part of the constitution.

The constitution of 1973 has more Islamic character than previous two. First time Islam was declared as State religion. Many Islamic provisions were added in the constitution that helps Muslim to live their individual and collective life according to their religion. Finality of Prophet hood of Prophet SAW is the core beliefs in Islam, without having Faith in finality of prophet hood no one can be Muslim. Keeping this core issue in the mind the constitution of Pakistan was amended in 1974 and it was added in the constitution that one who do not believe in the finality of prophet Muhammad SAW he can not be Muslim according to the constitution of Pakistan. After this amendment Qadiani were declared as non-Muslim. The constitution of Pakistan has All the basic provisions that Every Islamic constitution had. On one side it enables Muslims to live their lives according to Islam and other side it's guarantee basic and fundamental rights of minorities.

The constitution of 1973 is a great achievement for Pakistan. But still there is lack of implementation. There are some issues to minorities of country The implementation of some provisions related to the minorities is not upto the mark, the efforts are required to make these provisions practical. Furthermore, the constitution of Pakistan was amended many times. Every ruler has changed the constitution according to his wishes due to which it has lost its original Spirit. With some

limitations still the Constitution of Pakistan is best as for as the islamization of the state is concerned because it declared Islam as a state religion and makes Pakistan an Islamic republic.



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