

Muhammad Shafiq

ISLAMIC PRINCIPLES IN THE CONSTITUTION OF PAKISTAN  
(Objectives Resolution:  
Analysis of the Constituent Assembly of Pakistan Debates)

Introduction

In the Islamic state, all powers belong to Allah (Subhanahu Wa Ta'ala)\*. It is not only a matter of faith for a Muslim, but also an active and creative concept that Allah (SWT) alone is Absolute, Permanent, Indivisible, Lord of all and Master of all masters. He (SWT) has created everything, and everything belongs to Him (SWT) alone.

Men are His *Khulafa'* (pl. *Khalifah*: vicegerent) on earth. He (SWT) created them to obey His orders so that there may be peace, prosperity, and justice on earth. All men are equal and all are equally responsible and answerable to Allah (SWT).

*Shari'ah* is the law of Islam. Allah (SWT) revealed it to show His people how to follow the *Sirāt al Mustaqim* (the straight path). The *Shari'ah* is, therefore, a link between Allah (SWT), the Master of all men, and people, His vicegerents on earth. Without the establishment of *Shari'ah*, *falah* (success) on earth as well as in the hereafter seems impossible. Thus *Shari'ah* is the totality of Allah (SWT)'s commands, the core and kernel of Islam itself. To establish Allah (SWT)'s rule on earth and the vicegerency of men *Shari'ah* must serve as the law of the land.

For Pakistan to be an Islamic state, therefore, it was necessary that its leadership at the very outset proclaim these three basic principles of an Islamic system: that Allah (SWT) is the real Owner and Master of everything; that men are His vicegerents on earth; and that *Shari'ah* would be the law of the land. This is what the leaders of the Muslim League had promised to the Muslims of British India that they would have, a state where all powers would belong to Allah (SWT) and where affairs of the country would be regulated by the commandments of Allah (SWT). Unfortunately, however, the ruling elite postponed and procrastinated in stating these principles until doubts, suspicions and distrust were created among the people of Pakistan. This led to mass protests soon after its establishment. Finally, after much pressure, Mr. Liaquat Ali Khan, the Prime Minister at that time, moved the Objectives Resolution in the Constituent Assembly of Pakistan on March 7, 1949, some 18 months after the foundation of Pakistan. Outlining the aims and objectives

---

\*Subhanahu Wa Ta'ala is hereafter cited as SWT.

of the future constitution of Pakistan, it was declared :

Whereas sovereignty over the entire universe belongs to God Almighty alone, the authority which He has delegated to the state of Pakistan through its people for being exercised within the limits prescribed by Him is a sacred trust.<sup>1</sup>

The Objectives Resolution was welcomed with great joy throughout the country because it was taken as a positive step towards the Islamization of Pakistan. But later it was discovered that the Resolution did not mean to the ruling elite what it meant to the people, i.e., the Islamization of Pakistan.

To determine the exact meaning of the provision of sovereignty in the Objectives Resolution and its impact on the constitution of Pakistan, it is, therefore, necessary to make a thorough analysis of its authors and framers in light of the Assembly debates and other available literature. A comprehensive picture of the framers of the provision of sovereignty in the Objectives Resolution can be drawn if they are divided into three distinct groups: the secularists, the 'Ulāma', and the modernists.

#### A. The Secularists

The credo of the secularists was that religion and state are two separate entities and that religion has nothing to do with the affairs of state. They rejected the provision that "sovereignty belongs to God Almighty alone" because they thought that religion should not be mixed with politics. It is important to know that the secularists in Pakistan came from non-Muslim backgrounds, because the Muslims, even if some of them wanted to adopt a secular programme, dared not join the ranks of the secularists or advocate their claim publicly.

When Pakistan was created, at first the Muslim League controlled all of the Muslim seats in the Constituent Assembly. Minority seats were filled mostly by Hindus. Thus, in the Assembly, the Hindu minority constituted the only opposition to the ruling Muslim League. When the Objectives Resolution was moved in the Assembly, it was unanimously rejected by all of the non-Muslim opposition. Bhupendra Kumar Datta's speech in the Constituent Assembly is of special interest, and a brief analysis is in order here. According to Datta :

Politics and religion belong to two different regions of the mind, even if it be held that these two regions are interrelated by the presence of God, or even, say, by the unity, integrity or indivisibility of the human mind or human personality. For the special study, development and working of each region, we get the unifying bond either of God or of the human personality—politics comes within the sphere of reason while religion within that of faith.<sup>2</sup>

Thus, for Datta, politics encourages reason and builds institutions with logic, while reason in religion would be resented as sacrilegious. In politics, criticism must be free and open in order to develop democratic institutions. But, if religion is brought into politics, then the door to criticism is closed, which would eventually lead to absolutism.<sup>3</sup>

Datta reminded the Assembly that faith is blind and emotional and pointed at the first days of independence when thousands of people were killed, both Muslims and Hindus, because of the religious emotional fervour.<sup>7</sup> Finally, he pointed out some practical problems in mixing religion with politics.

First, he said that Islamic law is subject to many interpretations. Similarly, secular constitutions and constitutional laws have different interpretations. The latter is subject to reason and criticism, and it is reasoned until its conclusion; but Islamic law is subject only to faith. Therefore, we do not know who is the real authority, whether it be Ishtiaq Husain Qureshi or Maulana Shabir Ahmad Uthmani,<sup>5</sup> and, unfortunately, the Objectives Resolution is quiet about this. Datta argued that if Pakistan wanted to mix the two, then it must be at least clear as to who has authority in interpreting the Islamic law so that there would be no problems in the future.

Second, he said that the provision of sovereignty of Allah and the mixing of religion with politics would confront Pakistanis with problems such as the restoration of a Khilafah system, the establishment of Zakat, and the abolition of interest in the banking system.

Third, Datta said that there are two well-known systems in the world: parliamentary democracy and economic democracy. Here Pakistan was trying to create a third, namely an Islamic democracy, which means that it was deciding to stand apart from the two world systems and also challenging the world by presenting a new system.

Fourth, he said that this Resolution would not have come in this form if Muhammad 'Ali Jinnah—the founder of Pakistan—were alive then.<sup>6</sup>

Four amendments were moved by the opposition Congress party against the provision of the concept of the sovereignty of Allah. The opposition stressed the concept of parliamentary democracy, where sovereignty belonged to the nation. Kamini Kumar Dutta, speaking on the provision of the sovereignty of Allah, said that Pakistan should follow in the footsteps of other Muslim countries, and he cited the example of Turkey, Iraq, and Egypt, where sovereignty belonged to the people and where the constitutions were framed in the light of secular ideology.<sup>7</sup>

Chandra Mandel asserted that even though Saudi Arabia was the homeland of Islam, its constitution was not Islamic either. He said, therefore, that the Pakistanis should not insist on an Islamic constitution and on mixing religion

with politics.<sup>8</sup> The main reason why the Congress opposition party demurred on mixing religion with politics was because they feared, they would not be treated equally and that they would be prevented from running for or having key posts. They wanted secular democracy to be adopted in Pakistan so that there could be no question of ideology and so that they could freely participate in the nation's politics. Their argument was that a state has no religion; therefore, Pakistanis should not fight as to who is who in the state.

### B. The 'Ulama'

The 'Ulama' group was led by Mawlana Shabir Ahmad 'Uthmani in the Constituent Assembly. His voice was carried outside the Assembly by Mawlana Mawdudi, the founder of Jama'at Islami. Mawlana Mawdudi not only echoed Mawlana 'Uthmani but also further elaborated on his point of view and explained it to the public, both in writing and from the platform. A brief analysis of Mawlana 'Uthmani's speech delivered in the Constituent Assembly is presented here. Speaking on the Objectives Resolution, he welcomed it as a positive step toward Islamization. In his reply to the Congress Party's objection, he said that Islam had never accepted the view that religion and politics are two different things. He said that some other religions might accept the view of separating religion from politics, but it should not be applied to Islam. To answer their objection that Jinnah did not want Pakistan to be an Islamic state, Mawlana 'Uthmani quoted Jinnah's speeches in his support and said that Jinnah conceived Pakistan to be an Islamic state. Further, Mawlana 'Uthmani outlined the basic principles of an Islamic constitution. Speaking on the importance of the provision of the sovereignty of Allah, he said :

An Islamic state is not a state in its own rights with authority inherent in it. It is a state to which authority has been delegated. The real sovereignty belongs to God. Man is His vicegerent on earth and discharges his obligations in this respect along with other religious duties on the principle of a state within a state and within the limits prescribed by God.<sup>9</sup>

Speaking on the clause of "within limits prescribed by Him" he said :

It was to let mankind know as to what was sanctioned and authorized by Him and God sent prophets and gave revealed Books unto them. And it is with this purpose of outlining this all-important fact that the expression "within the limits prescribed by Him" has been used in the Resolution and herein lies the fundamental difference between an Islamic state and a secular, materialistic state.<sup>10</sup>

Mawlana 'Uthmani also told the Assembly that :

An Islamic state means a state which is run on the exalted and excellent

principles of Islam. It is evident that a state which is founded on some principles, be it theocratic or secular (like the U.S.S.R.), can be run only by those who believe in those principles. People who do not subscribe to those ideas may have a place in the administrative machinery of the state, but they cannot be entrusted with the responsibility of framing the general policy of the state or dealing with matters vital to its safety and integrity.<sup>11</sup>

Mawlana 'Uthmani made it clear that an Islamic state is not a sovereign state as it is regarded in the West. Allah alone is sovereign in Islam, so the authority in an Islamic state is not original, but delegated, and it should be used according to the commands of Allah. To him, the term "within limits" was important because it meant to him that Pakistan would be ruled according to the Qur'an and Sunnah of the Prophet. According to Mawlana 'Uthmani, man is the vicegerent of Allah on earth in general, but political vicegerency belonged to Muslims alone, and they should run the affairs of the state because they alone know the details of Islam. He cited the example of the U.S.S.R., where political power is controlled only by the Communist Party because they alone know how to interpret communism. He did not state clearly who would interpret the Qur'an and Sunnah; but it appeared that he was confident that, once Pakistan became an Islamic state, the 'Ulama' would naturally assume the position of interpreters of Islam—Quran and Sunnah—and would have a veto power in the political affairs of Pakistan. It is to be noted that the view of Mawlana 'Uthmani was unanimously accepted by the 'Ulama'. Further, it was publicized extensively by the 'Ulama', including the Jama'at Islami. It is obvious from the Assembly debates that no one among the modernists or government circles objected, criticized, or refuted Mawlana 'Uthmani's arguments. As will be seen, among the modernists, no one addressed the real issue in question on the floor of the Assembly. Rather, the main arguments were presented by those two opposite, contradictory, and different personalities—Bhupendra Kumar Datta for the secularists and Mawlana 'Uthmani for the 'Ulama'.

### 1C. The Modernists

Initially, the modernists in Pakistan were Muslim League members who were landlords, businessmen, lawyers, doctors, professors, and students from English oriented schools. Most of these people had been educated either in England or in the 'Aligarh—the Cambridge-style college founded by Sir Sayyid Ahmad Khan. The modernists were in the majority in the Constituent Assembly of Pakistan, and they had controlled the governmental machinery throughout the history of the country. The modernists were the most powerful group

in Pakistan; hence they were most responsible for what happened in Pakistan.

In order to give a brief picture of what the modernists were thinking in regard to the provision of sovereignty of Allah, an analysis of the speeches in the Assembly of some of the important personalities from among the modernists—who not only controlled key posts of the government but also were counted among those who created Pakistan—should be presented.

### 1. Liyaqat 'Ali Khan

Liyaqat 'Ali Khan was the first Prime Minister of Pakistan and had been the chief lieutenant of the founder of Pakistan – Muhammad 'Ali Jinnah. After the death of Jinnah, Liyaqat 'Ali Khan emerged as the most powerful personality in Pakistan's politics. The credit for declaring Pakistan to be an Islamic state went to Liyaqat 'Ali Khan, who introduced the Objectives Resolution in the Assembly and declared that sovereignty belonged to Allah alone.

After presenting the Objectives Resolution on March 7, 1949, Liyaqat 'Ali Khan told the Assembly that the Resolution was in accordance with the wishes of the founder of Pakistan – Muhammad 'Ali Jinnah.<sup>12</sup> Thus, he rejected the claim of the Congress opposition party that Jinnah wanted Pakistan to be a secular state. Liyaqat 'Ali Khan said that Pakistan was created so that Muslims of the Subcontinent could live freely and develop their lives according to the teachings and requirements of Islam. He said that although the theory of sovereignty of Allah contradicted the West's concept of sovereignty, there was nothing to be ashamed of, because of Islamic faith that authority was a sacred trust and should be exercised according to Islam. Further, he stated that Pakistanis did not believe in theocracy; real power belonged to all people and therefore people should exercise their authority through their chosen representatives. He also assured the minorities in Pakistan that they would be treated equally.<sup>13</sup> Liyaqat 'Ali Khan spoke in general and did not touch any of the controversial issues in order to avoid differences with the 'Ulama'. He spoke against theocracy and priesthood, but that was not viewed as anti-'Ulama' because Maulana 'Uthmani also spoke against the priesthood in Islam in his address to the Assembly.

### 2. Sardar 'Abdur Rab Khan Nishtar

Another important personality in Pakistan who was among the founders of the nation and who controlled various key posts in the government was Nishtar. Addressing the Assembly on March 10, 1949, he said that the question of separation of religion and state could not be applied to Islam, that Muhammad 'Ali Jinnah had declared many times that Islam was a complete code of life and after life, and that it not only governed man's relations with God but also his

relations and activities in other spheres of life.<sup>14</sup> Nishtar also said that the Resolution had emphasised the authority of the people through their chosen representatives; therefore, there was no justification in the Congress Party's view that the voice of the people was not supreme in the Resolution. He further stated that the clause "within limits prescribed by God" was good because it meant that the ruler in Pakistan would not be a king or a dictator.<sup>15</sup> Like Liyaqat 'Ali Khan, Nishtar was also rather vague. In his speech he tried to convince the Congress Party that the Objectives Resolution guaranteed their rights, and also that it did not mean that the voice of the people would be suppressed.

### 3. Mahmud Husain

Husain was a member of the Assembly and was much respected for his philosophical approach to religion. Addressing the Constituent Assembly on the Objectives Resolution, he compared the West's theory of sovereignty with the Islamic concept. He accused the West's vision of sovereignty as being immoral or that which is not bound by moral laws and said that Islamic sovereignty was nothing more than bringing back morality to politics.<sup>16</sup>

### 4. Ishtiaq Husain Quraishi

Quraishi was an eminent historian and was respected as a scholar among the modernists. Speaking to the Assembly on the Objectives Resolution, he said that reason and faith could not be divided because "our reason is fashioned by our faith and our faith is fashioned by our reason."<sup>17</sup> He also rejected the idea of absolute sovereignty in the modern world. Commenting on absolute sovereignty, he said :

It resides either in the dreams of the despot or in the imagination of the fool, because complete despotism is absolutely unknown to political science, and I challenge anybody to prove that one man without the support of a large number of people can possibly rule a state.<sup>18</sup>

Speaking about a secular form of parliamentary democracy, Quraishi said that if secularism meant anything that was not dependent upon the will of the priest, then Islam was secular because there was no priesthood in Islam. But if secularism meant that the ideals and principles of Islam should not be observed, then this kind of secular democracy was not acceptable to Pakistan.<sup>19</sup>

### 5. Mian Muhammad Iftikhar al Din

Iftikhar al Din was first a member of the Muslim League, and then left the League and founded the Azad Pakistan Party with a socialist manifesto in November 1950.<sup>20</sup> As a Muslim member of the Assembly, whether he was

sympathetic to religion or not, he favoured the Objectives Resolution. However, his speech on the Resolution was of a special importance. Iftikhar al Din, a top ranking Muslim League member involved in governmental affairs, was fully informed of the government's intentions. He presented a beautiful picture of the intentions of the government behind the Resolution. Speaking on the Resolution, he said that the minority Congress party should not oppose the Resolution because it would not in any way make Pakistan an Islamic state. He said that he had no objection if the 'Ulama' approved it; "But we know that Iraq, Iran, Afghanistan and Egypt have drafted their constitutions in the same way and they are most un-Islamic."<sup>21</sup> He further said :

I say, sir, that whereas the minorities need have no fear that this constitution begins with religious words, the Muslims should know that it is no guarantee that since we have used the words of Islamic state, we are to get justice and fair play or, in other words, an Islamic state. It has happened so often before that Islamic words have been used but its principles have not been followed.<sup>22</sup>

He further pointed out :

Sir, there is another reason for me to fear that we are not going to real democracy. Our actions during the last 1½ years have shown on what lines we are working.<sup>23</sup>

The modernists were obviously offended by Iftikhar al Din's speech in the Assembly. In retaliation, he was accused of being a socialist and a communist. The 'Ulama' also paid no attention to his words and its real meaning, but joined the criticism of the government against him.

On March 12, 1949, the Objectives Resolution was put to a vote and was unanimously approved by all Muslim members and opposed by the non-Muslim members. Its passage was welcomed throughout Pakistan. The activities of the 'Ulama' then cooled down, for they were assured of Pakistan's becoming an Islamic state. Liyaqat Ali Khan was congratulated and became an Islamic hero. The Pakistani media and newspapers lauded the Objectives Resolution and praised the efforts of Liyaqat Ali Khan. Excepts for a few, no one doubted the intentions of the ruling elite behind the Objectives Resolution.

It was not long after, in November, 1950, that Liyaqat Ali Khan presented the first draft of a constitution. It adopted the Objectives Resolution as its preamble, but there was hardly anything else Islamic in the body of the constitution. It followed the Western pattern closely.<sup>24</sup> The first draft constitution was opposed and criticized by the 'Ulama' as well as by the people of Pakistan and was condemned as being un-Islamic. The Constituent Assembly acknowledged the pressure by postponing consideration of the Report on November 22, 1950.<sup>25</sup> After the withdrawal of the first draft, year after year new drafts



were presented by successive regimes, but these drafts seldom went beyond adopting the Objectives Resolution as a preamble to the constitution. A study of many of the draft constitutions presented to the Assembly shows that there was hardly any improvement in the proposals which were presented one after another.

### Conclusion

Pakistan was created to give practical expression to the Qur'anic principles of rule and power. However, the secularists in Pakistan followed the West's example and demanded the separation of Islam from state politics. This was acceptable neither to the 'Ulama nor to the modernists. The 'Ulama, including the Jama'at Islami, instead asked for the implementation of the Qur'anic principles. The modernists, not having the courage to reject, refute, or even criticize their point of view, decided to humour the 'Ulama, by neither rejecting nor accepting in practice their point of view, but merely obscuring it.

First, the modernists accepted the argument of the 'Ulama that sovereignty belongs to Allah (SWT) alone, but they did not give up completely the concept of "sovereign state" as used in the West. The Objectives Resolution in paragraph three, uses the term "independent sovereign state of Pakistan", and in paragraph 12, it uses the phrase "its sovereign rights on land, sea, and air." Thus, it seems that the framers of Objectives Resolution, whether intentionally or unintentionally, did not distinguish between the sovereignty of Allah (SWT) and that of the West, but merely confused the two.

Second, to the modernists, the sovereignty of Allah (SWT) meant moral and ethical values. This is best explained by Mahmud Husain in his address to the Assembly. Comparing the Islamic concept of sovereignty to the Western concept, he accused the Western view as being "Immoral", stating that the sovereignty of Allah (SWT) means to bring back morality to politics. Agreeing with Mahmud Husain, Professor Manzur al Din Ahmad said that the sovereignty of Allah (SWT) and the concept of "limit" meant to the liberals a higher moral order symbolized by moral principles.<sup>26</sup> While the 'Ulama were of the opposite opinion. The provision of the sovereignty of Allah (SWT) and the concept of "limit" meant to them rule by the Qur'an and sunnah of the Prophet Muhammad (Salla Allah 'Alayh wa Sallam) in Pakistan.

Third, the sovereignty of Allah (SWT) never achieved legal sanction in the constitution of Pakistan. It was included as a preamble to the constitution, and the preamble has no legal authority. Shawkat Mahmud explains :

Though the preamble to the constitution is a key to open the mind of its law makers which may show the general purpose for which they made the several provisions in the constitution, yet the preamble is not

a part of the constitution, and it has never been regarded as the source of any substantive power conferred on the government or any of its departments.<sup>27</sup>

So, by providing a clause on the sovereignty of Allah (SWT), the modernists did not give it legal sanction, but made it only a guiding principle. Perhaps, the modernist, as Iftikhar al Din pointed out in his address to the Assembly, were following the older constitutions of Iran and Afghanistan or that of Egypt and Iraq, in which the concept of sovereignty of Allah (SWT) is also adopted, but is helpless and ineffectual in a legal sense. It is very much obvious from the Objectives Resolution and the later constitutional developments in Pakistan that no serious effort was made to draft a constitution in the light of the Holy Qur'an and sunnah of the Prophet Muhammad (Salla Allah 'Alayh wa Sallam). Rather some patchwork was tried. Present political instability in the country and its constitutional crisis is a clear proof of what was achieved in the past.

#### NOTES

1. *Constituent Assembly of Pakistan Debates*, hereafter cited as *CAPD.* vol. 5, no. 1, March 7, 1949 (see Objectives Resolution).
2. *CAPD.*, Vol. 5, no. 2, March 8, 1949, pp. 13-14.
3. *Ibid.*, p. 14.
4. *Ibid.*,
5. Ishtiyaq Husayn Quraishi and Mawlana Shabir Ahmad 'Uthmani were both members of the Constituent Assembly. Mawlana 'Uthmani represented the 'Ulama' while Quraishi was more or less modern in his approach to religion and represented the modernists point of view in the Assembly. Datta pointed the real problem in Muslim society which is the product of the dual education system: whether the authority of interpretation belonged to the 'Ulama coming from the madrassah system or to the others educated in modern institutions.
6. *CAPD.* vol. 5, no. 2, March 8, 1949, pp. 15-16.
7. *CAPD.* vol. 5, no. 3, March 9, 1949, pp. 23-24.
8. *Ibid.*, pp. 48-49.
9. *Ibid.*, p. 45.
10. *Ibid.*, p. 44.
11. *Ibid.*, p. 45.
12. *CAPD.* vol. 5, no. 1, March 7, 1949, p. 2.
13. *Ibid.*, pp. 2-5.
14. *CAPD.* vol. 5, no. 4, March 16, 1949, p. 56.
15. *Ibid.*, pp. 56-58.
16. *Ibid.*, pp. 84-86.
17. *CAPD.* vol. 5, no. 2, March 8, 1949, p. 39.
18. *Ibid.*, p. 41.
19. *Ibid.*, p. 42.
20. *Pakistan Times*, Lahore, November 11, 1950.
21. *CAPD.*, vol. 5, no. 3, March 9, 1949, p. 52.
22. *Ibid.*, p. 53.
23. *Ibid.*, p. 54.

24. G. W. Choudhury, *Documents and Speeches on the Constitutions of Pakistan* (Dacca: Green Book House, 1967), pp. 32–61.
25. *Pakistan Times*, November 22, 1950.
26. Manzur al Din Ahmad, *Pakistan: The Emerging Islamic State* (Karachi: The Allies Book Corp., 1966), p. 101.
27. Shaukat Mahmud, *Constitution of the Islamic Republic of Pakistan, 1973* (Lahore: Legal Research Centre, no date), p. 3.