



Quaid-i-Azam and Constitutional Rule in Pakistan

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The Quaid-i-Azam always fought his battles and won the war of independence in a democratic and constitutional manner. As a matter of fact, all along during the struggle for Pakistan and even prior to that, he acted as the champion of the constitutional rights of the Muslims of the Subcontinent.

No doubt Pakistan's demand was based on the two-nation theory. But a very important aspect of that theory was to secure and safeguard the constitutional rights of the Muslims. It was on account of this that the Quaid wanted that the Constitution of Pakistan, which would be its fundamental law, should be framed as early as possible, after our independence. He had actually started working in that direction. He had himself undertaken a comparative study of various constitutions of the world and wanted that different articles, which were germane and relevant to our conditions and which reflected our hopes and aspirations should be enshrined in our constitution. Not only this but he also wanted that immediately after the framing of our constitution, the first elections should be held in the country in accordance with and under that constitution.

In his memorable address to the Constituent Assembly on 11 August 1947, he enunciated certain basic principles on which he wanted our constitutional edifice to be raised. These principles were supposed to serve as the bedrock and the foundation. These guidelines should have served as the keel on which the ship of our state should have been built. Unfortunately this was not done.

If we recall the political atmosphere that prevailed at that time, we will observe that the Constituent Assembly had just embarked upon its mission of constitution framing. The members were all seasoned and experienced politicians who were sincere in their approach to constitution making. The Quaid-i-Azam is himself on record to have said in his speech in Quetta and I quote "We will give you your constitution in eighteen months". Thus everyone expected that the Constitution of Pakistan would be framed soon. The hydra-headed monster of inter-provincial controversies had not yet raised its ugly head. Had the constitution been framed in those days and had the first election been held in Pakistan under that constitution, it is my considered view that no one after that would have been able to upset the apple-cart and we would have been firmly set on our path to progress and prosperity. We would have been able to find our rightful place in the comity of nations.

Before our independence, I had opportunities and occasions to pay my respects to the Quaid-i-Azam. But after our independence, when I was privileged to meet him, I saw him working on the Constitution of Pakistan. I have mentioned above that he had undertaken a comparative study of the constitutions of different countries. I saw that he had on his hands the Constitution of Switzerland which he was trying to study. It occurred to me that he might have seen some good points in the cantonal system that is in operation in that country. Perhaps the Quaid also wanted to see how the Swiss, despite being geographically situated between the warring states of Europe were able to maintain their



neutrality and live in peace. Perhaps he also wanted that Pakistan should become a land of peace, progress and prosperity by following the Swiss pattern. If we take a look at the map, we will observe that nature has placed us in a strategically very important and sensitive area. We are surrounded by big and powerful neighbours. We have India on our eastern side and China and the USSR towards the northern side. We also have smaller and developing nations in our neighbourhood such as Sri Lanka, Nepal and Bhutan. Above all we have the fraternal states of Afghanistan and Iran as well as the Gulf States. All told, this forms a mosaic and the Quaid wanted this mosaic to remain intact and play its individual as well as collective part in beneficent co-operation. He gave such indications right from the beginning, whenever he spoke about the future foreign relations of Pakistan.

It is a self-evident fact that all this would not have been achieved without stability at home and constitutional rule prevailing within Pakistan. Supremacy of law can only be achieved when we have a fundamental law and constitution in the country respected by everyone. Constitutional rule can only be achieved when there is a constitution in the country and everyone is prepared to conduct the business of state according to its provisions. If we are not prepared to accept or act upto the constitutional provisions, then it is no use having such a constitution. Constitution is a sacred document which reflects the hopes and aspiration of the nations and all our pious resolutions are enshrined in it. It is essential, therefore, that we adopt and accept our constitution without any mental reservations and eschew the policy of playing ducks and drakes with it later on by introducing frequent amendments in it, so that the very spirit and the soul of this sacred document is not done away with.

When we achieved our independence and emerged as a sovereign nation in the comity of nations, we had inherited our governmental and fiscal arrangements from

the British. We were guided by and worked under the provisions of the Government of India Act of 1935. This became our interim constitution. The structure of the state and the government was defined in it. The Quaid also worked under the provisions of this Act, with such modifications as became relevant and necessary to the changed set of circumstances. Even then he upheld the principle of the supremacy of law and constitutional rule in the country. In his speech on 11 August 1947, he specifically mentioned the scourge of bribery, corruption, jobbery and nepotism. He wanted all this to be put down with an iron hand and also wanted that constitutional provisions were made to stamp out these ills as well as black-marketing.

I can here also mention the enactment known as PRODA (Public Representative Office Disqualification Act). By the dismissal of some senior politicians of the level of Chief Minister by the Quaid-i-Azam, it became necessary to give such actions a legal and constitutional cover. As such, an Act was framed and a law was included in the book of statutes in order to meet such an exigency. The point I am trying to make is that the Quaid-i-Azam always desired that constitutional rule and supremacy of law must prevail in Pakistan under all circumstances.

It is unfortunate that the icy hands of death took him away from us so soon. He could not see the Constitution of Pakistan framed in his lifetime. After his passing away we entered a phase of limbo and even the passage of the Objectives Resolution was inordinately delayed. As a matter of fact Objectives Resolution itself ran into difficulties as the members of the Constituent Assembly were divided into two opposite and warring camps. One group wanted that Pakistan should be an Islamic state, while the other group did not contribute to this thinking. They expressed fears that the country would slowly and gradually become a theocracy. It was on account of this that the Objectives Resolution just became



a resolution of pious intentions and did not form a part and parcel of the Constitution itself.

The members of the Constituent Assembly, after the death of the Quaid-i-Azam felt that if they quickened the pace of constitution making and gave the nation a finished product then *ipso facto* an election would be thrust on them for which they were not prepared. If we were to take a retrospective view of the situation we would see that actually our misfortunes started from that point in time. The inordinate delay which dominated the business of constitution making was in itself responsible for the despotic action of its dissolution. Herein lies a glaring example of our deviating from the path of constitutional rule in Pakistan, which the Quaid-i-Azam desired so much.

Watching the march of events in a kaleidoscopic manner, we see that a Constitution was framed in 1956. This fell prey to the ambitions of the persons who wanted to take over power at that time and was abrogated. In 1973 also we had a new Constitution. But only having a constitution is not the panacea of all our ills. Constitution is a sacred document and its provisions have to be respected and implemented. Amendments in it to give more power to one's own elbow have to be avoided. Otherwise it just becomes another piece of paper.

I will here quote an example which is a classic development of its kind. I refer to Watergate scandal in the United States. The crisis assumed such gigantic proportions that a senior and experienced politician of the stature of President Nixon had to resign and go away. According to me and so many others, he was one of the ablest Presidents of the United States. All through the crisis it were the built-in shock-absorbers in the US Constitution that were responsible for the ship of state to sail through the stormy seas and put it safely in the harbour of smooth transfer of power and efficient administration. One would like to pay a tribute to the foresight and comprehension of the founding fathers of



that country owing to whose skill and acumen the crisis passed off peacefully and power was transferred from one person to another in a constitutional manner. Both the new President as well as the new Vice President assumed their new offices and were sworn in without difficulty. This was only possible because the provisions of the constitution were respected by all concerned and a state of constitutional rule prevailed in the country.

I am confident that the Quaid-i-Azam also envisioned this sort of a constitutional rule in Pakistan. He wanted the Law to be supreme and wanted to see justice dispensed without fear or favour.