

HAVE WE BEEN TRUE TO CONSTITUTION

STUDENTS' VOICE

31 March 1958

PROF. KHURSHID AHMAD



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By Professor Khurshid Ahmad

TWENTY THIRD MARCH is epoch-making date in the history of Pakistan. On this day was born an Islamic Republic a republic which has courageously resolved to uphold the Islamic ideology, whose appearance on the face of the world is the culmination of a mighty historic movement for Islamic renaissance. Indeed, if on 14th August we became free from the yoke of imperialism and achieved independence, on 23rd March 1956 we proved that we have become free from all alien influences and determined to march ahead to meet our trust with destiny.

The introduction of the new constitution was historic event in our socio-political life. The fact is that a host of baffling problems followed in the wake of partition. Some of them were unforeseen some were the results of the follies of our own leadership. But, whatever be the causes, the complexities grew thicker and thicker so much so that it seemed as if everything was dissolving and creating confusion. Constitution in other hand was to our political horizon like a beacon light. It dispelled the forces of darkness and lit up new lights.

People of Pakistan had to undertake a long struggle to achieve constitution. Vested interests were opposed to the very idea of a constitutional regime in Pakistan. They were thinking in terms of dictator ships, controlled democracies and revolutionary councils. Those who have not reconciled themselves to the basic ideology of Pakistan were trying their level best to sabotage it from within by imposing secularism on the country. They were fighting against the idea of an Islamic state. People faced these odds courageously, fought them and overcame them. Adoption of the constitution was the victory of the people, the victory of democracy and the victory of the patriotic Islam loving forces. In fact, it was the victory of the real concept of Pakistan over the perverted visions of the unreconciled elements.

As such our constitution had not been a mere document of the fundamental law. It has been the embodiment of a concept of the state, the symbol of the real ideology of Pakistan and the incarnation of a vision of the future. It did not merely in augurate the era of constitutional rule in Pakistan, it heralded the establishment of an ideological state representing the best of the values of democracy. Thus the demands and dictates of this constitution were unique and of paramount importance.

Today, after two years of the constitution, it is imperative that we do some heart searching to see how far we have been true to this sacred charter of our state.

The barest minimum demands of this constitution were these.

Firstly, strict adherence to the letter and spirit of the Constitution;

Secondly, immediate general elections to enable the people to bring up a leadership of their own liking; and

Lastly, pursuance of a policy of reform and reconstruction of socio-political life in accordance with the principles contained in the constitution.

But have we really fulfilled even to the letter, not to speak of spirit of the constitution.

VIOLATIONS OF THE LETTER AND SPIRIT

A critical study of the two years that have gone reveals that we have not been true, even to the letter, not to speak of spirit of the constitution.

1. The primary need of the post-constitution era was a complete overhaul of the statute Book. Laws which were not in conformity with the constitution should have immediately been repealed, altered or amended. It was with the realisation of this need that the framers of the constitution made provisions in Article 224(2) for "bringing the provisions of any law in force in Pakistan or any part thereof into accord with the provisions of the constitution." This, it was supposed, would be done "within a period of two years from the Constitution Day."

But what has been done in this respect? Two years have - expired today, but the Statute Book remains unaltered. Many laws have been declared void by the higher courts. Hundreds of writ petitions have been moved and scores of them have been granted. Aren't they a proof of the anarchic situation that has been created? Respect of law has for long been at a low ebb, but now its power and authority has become questionable. Nobody knows what law may be declared unconstitutional. The only remedy was to immediately overhaul the law Book and bring it in conformity with the Constitution so that the machinery of law could work smoothly. But this has not been done and it is a violation of a basic requirement of the constitution.

2. The question of the Islamic Law Commission also deserves some consideration. The constitution said that "within one year of the constitution, the President shall appoint a Commission" (Article 198), but instead of following the article in its real spirit it was thought advisable not to appoint the commission throughout the year and declare the appointment of the President of the Commission only on the 365th day. Is this in conformity with the spirit of this provision? Then the personnel of the Commission were announced some six months after this declaration. Now the question arises: Can there be a commission without the personnel? And if according to the Constitution the Commission was to be appointed within one year, while the personnel of the commission were not announced even after nine and a half year, was this in accordance with the provision of the Constitution?

Here again we find an evasion and violation, not the adoption and the pursuance of the constitution.

3. The constitution stipulated early establishment of an Institute of Islamic Research. (Article 197). This organisation was also to assist the urgent and fundamental task of "the reconstruction of Muslim Society on a truly Islamic basis." In the last year's budget a financial provision was made for this institute, but nothing has been delivered as yet. Articles 197 and 198 have been called the Islamic provisions, and what has been done with both of them is crystal clear.
4. Article 118 of the Constitution provided for the establishment of a "National Finance Commission" as soon as may be after the Constitution Day. This Commission was assigned with a very important task, viz. to make recommendations as to the "distribution between the Federation and the Provinces of the net proceeds of the taxes." This had important

bearing on the economic development of the country but the Commission has not come into existence as yet.

5. The question of electorates was left undecided in the Constitution. But it was to be decided in accordance with the spirit and the general scheme of the constitution. But this has not been done. Joint electorates are in conflict with the scheme of the Constitution which is based on ideological and religious distinctions. This is a clear violation of the spirit of this sacred document to which we all have vowed allegiance.
6. Article 234 of the Constitution has been used in such a way that it supersedes and violates section 216 of the constitution. Article 234 empowers the President to remove by order, "any difficulties particularly in relation to the transition from the provisions of the Government of India Act 1935 and the Indian Independence Act 1947." But this article has been invoked to enable High Court judge to practice in a court of law after his retirement, if he does so within a specified period. Now the constitution explicitly prohibits it. (Article 166 (3).) And the permission so given constitutes an amendment of the constitution which can only be performed in the way suggested in Article 216. Thus there seems to be a violation of the constitution.
7. The constitution also provided for the "appointment of a Commission to investigate the conditions of Scheduled Castes and backward classes." (Article 206). Here again the provision remains unfulfilled.

These are few instances which we give to substantiate the point .that even the letter and the spirit of the Constitution have not been respected. If this has been our attitude towards the provisions of our fundamental law, what else could have been expected. Nothing can be more deplorable, more unfortunate and more disastrous than evasive attitude towards the fountainhead of law.

NEW ELECTIONS

The second fundamental demand of constitution was new elections.

Although the country legally became independent on 14th August, 1947, the real transfer of power to the people was not affected. With the adoption of the constitution the transfer of power became constitutionally established but from political and practical viewpoint the process remains uncompleted as long as free general elections are held. After the constitution it became still more imperative, for an assembly which was primarily a constitution-making body loses all its sanction after performing that job. And in the case of Pakistan, as the Constitution was made under public pressure, it became more essential that the people should immediately be given the opportunity to enjoy the sovereign rights and bring up a leadership of their own choice, in which they have full confidence. But this hope and need has remained unfulfilled. It was promised that the elections will be held immediately. They were not held. It was proposed that they will be held in 1957. But 1957 has worn off without profit. It was declared that March 1958 is the dead-line. And now the dead-line has been crossed over, now it is said that November 1958 will witness general elections. Let us hope for the best, but, keeping in view the legion of broken promises that is before the mind's eye, we cannot but take the promise with a pinch of salt. People have lost confidence in the promises of the leadership and their position is no different from what the post portrayed when he said

*"If we lived on your promises, it was because we never trusted you;
For if we have believed them true, we must have died out of joy."*

SOCIO-ECONOMIC POLICY

The failure is most poignant in this respect. Constitution envisaged us to be a democracy. But the country is not ruled by representative Governments. The way in which Ministries have been installed and maintained in both the provinces is an open secret. Civil liberties are being curbed so much so that even the chief of an influential political party was not allowed to enter a prominent city of East Pakistan. The democratic rights of the people are being trampled under feet and the growing number of writ petitions is an undeniable proof of it. And the bureaucratic attitude of the rulers is so callously arrogant and contemptuous that instead of mending their ways, they are thinking of depriving the people of some of the rights granted by writs of different kind. This is what we have had the democratic spirit of the constitution.

Social Reconstruction:

As far as the Islamic provisions are concerned, one is grieved to see that nothing has been done towards the reorganisation of the society on Islamic lines. The Directive Principles of State Policy have failed to direct the Government in power. Prostitution is still rampant. Gambling is on the increase, use of liquors remains unprohibited. Riba or interest runs through every vein of our economy. Corruption is multiplying at a heavy pace. No attempt has been made to establish institutions for the collection and disbursement of Zakat and Sedakat, nor their pre-requisites have been fulfilled. The organization of Islamic Research remains unestablished. When one looks upon the dictates of the Constitution and the social policies of the Government, one finds a big chasm between the two. The constitution's basic demands about social reform have not been fulfilled.

Education Reforms:

In the educational field the minimum demand of the Constitution was the immediate appointment of a commission to suggest the ways and means to remodel the system of education so that it may be able to cater to our new ideological and national needs, and to popularise education so that it may be able to cater to our new ideological and national needs, and to popularise education so that more and more people may be able to understand the meaning and message: of Pakistan and thus may fulfil the dictates of the Constitution. On the last Republic Day an announcement was made that a Commission is being appointed but now we are knocking at the doors of the second Republic. Day but the idea of the Commission still remains immaterialised.

In East Pakistan the provincial Education commission has submitted its Report and nothing can be more in contravention with the spirit and the dictates of the Constitution than this Report. Constitution says that teaching of the Quran will be made compulsory and the Report suggests that the pupil, in the primary stages, should not read any other language than Bengali. Now what does it mean? The younger generation will not be able to read Quran in the early stages of life, in the period when its reading is most essential and when the real foundations of life and character are laid. This is how we are fulfilling the stipulations of the Constitution.

What about the economy? The constitution envisaged an economy wherein Justice would be established, inequalities would be reduced, employment would expand and every citizen would be

able to satisfy his basic necessities of life. But what is the state of our country? What is the tone and temper of our policies? Least is said, the better it is.

Food crises have become chronic. Foreign exchange position is precarious. Rate of industrial development has fallen. Dependence on foreign aid has increased. Prices are rising, in an upward spiral. Cost of living has become costlier and costlier. Industrial disputes are multiplying and strikes are becoming a regular feature of the economy. Inequalities reign supreme. The difference is even more than that of 1 to 4000. As such what tribute can we pay to those who are presiding over our disintegration.

International Relations:

The constitution said that "The state shall endeavour to strengthen the bonds of unity among Muslim countries, to promote international peace and security, to foster goodwill and friendly relations among all nations and to encourage the settlement of international dispute by peaceful means." (Article 24). But our foreign policies have not been brought in conformity with these provisions. It is difficult to say whether we have been responsible for uniting the Muslim world or for accentuating the differences that are plaguing it. Our leaderless stand over the Liberation Movement of Algeria has a bad smell. We are not following an independent and dignified policy, instead we have tied ourselves to, the apron-strings of a few countries and have lost our individuality. We have not become the standard bearers of our ideology and have not even tried to propose the solutions of the world problems from our own view-point. This prestige of ours in the world abroad is declining and even our 'friends' are coldly looking towards us with suspicion glowing in their eyes.

WHY?

This is the situation today. This has been our record of obedience to the constitution. It was a painful job to survey the situation, but it was essential to see what pains we are inflicting upon sacred constitution.

Now the question arises: Why all this has happened? My analysis is that it is because of two basic causes viz: Lack of proper leadership and lack of well-organised public opinion.

The primary responsibility of translating the constitution into practice rested upon the shoulders of our political leadership. But the leadership has failed to deliver the goods. It has neither the fear of God nor that of the people. It has no respect for the Constitution or the will and aspirations of the people. And because of this wrong leadership the words in constitution have not been rendered into reality.

The other cause is lack of organised public opinion. In a democracy organised public opinion plays an important part in running of the Government. It is the real guardian of the constitution and the final arbiter of political decisions. It plays an active role in the making of the policies and execution. It is the mightiest check against the mistakes and extravagances of the leadership. But in our country an organised public opinion is conspicuous by its absence and unless we achieve this, we would fail in the mighty task that revolves around us.

The declaration of Pakistan as an Islamic Republic is a greater responsibility. Now we have to prove the worth of our mettle, we are on trial. We will have to show the substance in our claims. History will Judge us, not on our promises, but in the light of achievements. We must rise up to reorganise the society on the basis envisaged in the glorious document, our constitution. We are on the threshold of a great future; we will have to march ahead with the courage of our conviction to our rendezvous with destiny. The task ahead is uphill. It calls for sustained effort, ceaseless endeavour and abundant sacrifice. Then alone will we be able to fulfill our Goal with destiny. Oh! the future of our dreams.

*Thou wilt come, join men. knit nation unto nation,
But not for us who watch today and burn.
Thou wilt come; but after what long years of trial,
Weary watching, patient longing, dull denial!*

PROF KHURSHID AHMAD