

Constitutional History of Pakistan

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Title of Assignment	:	Annual Examination 2020
Title of Course	:	Constitutional History of Pakistan
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Submission Date	:	08-12-2020

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ANSWER NUMBER 1:

DOSSO CASE:

On the 13th October, 1958, Criminal Appeal titled State v. Dosso, PLD 1958 SC 533, came up for hearing before the Supreme Court. The respondent in this case was convicted by Council of Elders under the Frontier Crimes Regulation. The high Court of West Pakistan (Quetta Seat) set-aside the conviction on the finding that Frontier Crimes Regulation, being repugnant to Article 5 of the Constitution of 1956, the convictions were bad in law.

HELD BY THE COURT:

As per majority judgment it was held that as Article 5 of the late Constitution itself had now disappeared from the new Legal Order, the Frontier Crimes Regulation was by reason of Article IV of the Laws (Continuance in Force) Order, 1958 still in force and, all proceedings in cases in which the validity of that Regulation had been called in question having abated, the convictions of the respondents recorded by the Council-of-Elders was good. Cornelius, J., in his judgment held that:

“I am unable to hold beyond doubt that the concluding words of sub-section (7) of Section 2 of the Order of the 10th October 1958, have the effect of bringing to an abrupt end the proceedings in the petitions before the High Courts commenced by the convicted persons in the two cases here under consideration. I do not therefore consider that it is open to me to reverse the Judgment of the High Court in these two cases and to re-call the writs issued by them unless I am satisfied that the view of the High Court on the point of repugnancy to Article 5 of the Constitution of 1956 is not tenable.”

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PRINCIPLES LAID DOWN IN DOSSO'S CASE:

The principles enunciated in this case summarized as follows:-

- The main question involved in this case was whether the writ issued by the High Court abates under clause (i) of Article 1 of the Laws (Continuance in Force) Order, promulgated by the President on October 10, 1958. The President, by the promulgation of October Order, annulled the 1956 Constitution and a few days later was promulgated by the President the Laws Continuance in Force Order, the general effect of which is the validation of laws, other than the late promulgation, and Testoration jurisdiction of all Courts including the Supreme Court and High Courts. The order further directed that Government of the country shall be governed as nearly as may be in accordance with the late Constitution,
- One of the basic doctrines of legal positivism, on which the whole science of modern jurisprudence rests, requires a jurist presuppose the validity of historically the first Constitution whether it was given by an interval usurper an external invader or a national hero or by a popular or other assembly of persons.
- Whether the Constitution presents such continuity, a law once made continues in force until it is repealed altered or amended in accordance with Constitution. The Judgment in state w Dosso set the seal of legitimacy on the Government of Iskander Mirza though he himself was deposed from office by Ayub Khan, a day after the judgment was delivered.

MOULVI TAMIZUDDIN CASE:

In 1954 the Governor General dissolved the Constituent Assembly when he did not agree to the proposed constitution. This first major subversion of the constitutional process was challenged before the Federal Court, which validated the dissolution of the assembly in the famous Moulvi Tamizuddin case.

PRINCIPLES LAID DOWN:

The Speaker Maulvi Tamizuddin Khan applied for a writ of quo warranto against the newly appointed Ministers and for a writ of mandamus for his own restoration to the office of the Speaker. The Chief Court of Sind issued the writs prayed for but on appeal the Federal Court overruled the decision of the Chief Court and held that Section 223-A of the Government of India Act, 1935 which had empowered the Chief Court of Sind to issue writs was invalid, as the Legislative Act by which it was added to the Government of India Act 1935 had not received the assent of the Governor-General which was essential constitutional requirement for all Acts of the Constituent Assembly, whether it acted as the Legislature of the Dominion, or as the Federal Legislature.

The Constituent Assembly all along claimed that the Governor-General's assent to Constitutional Bills passed by it as the Legislature of the dominion was not necessary. The Federal Court decision made Governor-General's assent indispensable to all Constitutional Bills.

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ANSWER NUMBER 2

INTRODUCTION:

The Consultation stipulated in Article 177 of the Constitution pertains to the period before Amendment by the Constitution (Eighteenth Amendment) Act, 2010.

RELEVANT ARTICLES:

Article 177 of the Constitution provides that Chief Justice of Supreme Court shall be appointed by the President and each of the judges shall be appointed by the President in consultation with the Chief Justice of Pakistan.

Similarly, Article 193 of the Constitution provides that high court judges shall be appointed by the President in consultation with the Chief Justices of Pakistan, the Chief province concerned Justice of the relevant High Court and the governor of the Province.

FINDINGS IN AL JEJAD TRUST CASE

In Al Jihad Trust case the Chief Justice opined as under

For the appointment of judges of the Supreme Court and High Court an affective consultation is necessary The word after consultation" employed inter alia, in Article 177 and 193 of the Constitution connote that the consultation should be affective meaningful, purposive, consensus oriented, leaving no room for complaint or arbitrariness or unfair play. The opinion of Chief Justice of Pakistan and Chief Justice of a High Court as to the fitness and suitability of a candidate for judgeship is entitled to be accepted in the absence of very sound reasons to be recorded by the President executive Acting Chief Justice, however, is not a consultee as

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envisaged by Arts. 177 & 193 of the Constitution and therefore, mandatory Constitutional requirement of consultation is not fulfilled by consulting an Acting Chief Justice except in cases where the permanent Chief Justice concerned is unable to resume his functions within 90 days from the date of commencement of his sick leave because of his continuous sickness. Consultation for the appointment/confirmation of a Judge of a Superior Court by the President Executive with the consultees mentioned in Arts. 177 and 193 of the Constitution being mandatory, appointment/confirmation made without consulting any of the consultees as interpreted herein, would be violative of the Constitution and, therefore, would be invalid.

ANSWER NUMBER 3

Imposition of Martial Law 1958

INTRODUCTION:

Due to the political and economic problems stated above, President Mirza was trying to avoid announcement of the date of the general elections. He kept postponing the elections on one pretext or the other. It was agreed that the general elections would be held in November 1958. However, with the help of the members of Republican Party and other parties favourable to him, he was able to have All Parties Conference to agree on postponement of elections from November 1958 to February 1959. Qayyum Khan, President of Muslim League, refused to participate in the Conference and threatened to launch direct action against the government if it did not announce a firm date for elections. There were clashes between Muslim League workers and the police in Karachi.

MIRZA LOSING CONTROL:

At that point it appeared that Mirza was losing control of the democratic forces in the country and could not influence the electoral process. General Ayub saw this as an opportunity to fulfill his political ambitions and tacitly encouraged his generals to demand imposition of martial law and for taking over the affairs of the country in the summer of 1958. In September 1958, Prime Minister Noon was again losing grip of situation and his ministry was likely to fall. In order to avoid that he made a massive expansion of the central cabinet in order to satisfy Suharwardy's Awami League. After a few days, Awami League ministers resigned and Noon government fell into disarray. On 6 October 1958 Khan of Kalat announced secession of Kalat from Pakistan as his reaction to the establishment of the military bases in Balochistan. However the Army put

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This was beginning of recurring periods of martial down this revolt and was projecting himself itself as a saviour of the country. In early morning hours of 8 October 1958 Mirza announced proclamation of martial law throughout the country. Before doing that he met the American Ambassador and British High Commissioner and some other envoys and informed them of his intention. He assured them that the new government would be even more pro-west than the earlier ones. Mirza in his proclamation abrogated the constitution, dismissed the central and provincial governments, dissolved the National Assembly and the Provincial Assemblies of East and West Pakistan, banned all political parties and postponed the general elections indefinitely. Prime Minister Noon and members of his cabinet were put under house arrest

IMPOSITION OF MARTIAL LAW:

The proclamation of martial law and the abrogation of the Constitution resulted in a days after the imposition of martial law, on 10 October 1958, the Laws (Continuance in Force) Order was promulgated with a view to bringing about a new legal order. The general effect of this was the validation of laws, other than the last Constitution, that were in force before the promulgation of 7 October. It also restored the jurisdiction of all courts including the Supreme Court and the High Courts. The Order contained further direction that the government of Pakistan should act as nearly as might be in accordance with the late Constitution, and that the law declared by the Supreme Court should be binding on all the courts of Pakistan. The Supreme Court and the High Courts were also given the power to issue writs of habeas corpus, mandamus. prohibition, quo warranto, and certiorari. However, no writ could be issued against the Chief Martial Law Administrator or anyone exercising powers or jurisdiction under his authority. It was made clear that no court or person could call or permit to be called in question

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(i) the proclamation of 7 October, (ii) any order made in pursuance of the proclamation or any martial law order or martial law regulation, (iii) any finding, judgment or order of a Special Military Court or a Summary Military Court'

It was further provided that the powers of a provincial governor would be those that the President directed him to assume on his behalf under Article 193 of the late Constitution. The Governor was required to act under directions given to him by the President or by the Chief Martial Law Administrator (CMLA) or by a person having authority from the Martial Law Administrator.' The Laws (Continuance in Force) framework to the state for the continuity of the legal Assembly in 1954 were thereby avoided.

Imposition of Martial Law 1977

The Pakistan Peoples Party (PPP) came in power after the general elections held in 1970. The power was given to PPP after the devastating war with India which ended with the secession of East-Pakistan. Proponents of social democracy, left-wing philosophy, and socialist orientation was encouraged by the government and such ideas slowly entered in the ordinary lives of the people.

According to some authors and historians some influential groups were not ready to accept the PPP's taking power in 1971. In 1972–74, the intelligence community had thwarted more than one attempt by the military officers to oust the civilian PPP government; all cases were heard by JAG legal branch of the Pakistan military. In 1976, Prime Minister Bhutto forcefully retired seven army generals to promote Lieutenant-General Muhammad Zia-ul-Haq to four star rank and subsequently appointment as chief of army staff and General Muhammad Shariff as chairman

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joint chiefs. Reciprocating in the same period, General Zia invited Bhutto of becoming first and only civilian Colonel Commandant of the Armoured Corps.

1977 general elections and political crises

In 1976, nine religious and conservative parties formed a common platform, called Pakistan National Alliance (PNA). In January 1977, Prime Minister Bhutto immediately started campaigning after called for new general elections. The PNA was united behind religious slogans and a right-wing political agenda. The PPP, on the other hand, campaigned on a platform of social justice in agriculture and industry. Despite large turnouts at PNA campaign events and the establishment on PNA's circle, the results of the general elections showed the Pakistan Peoples Party winning 155 out of 200 seats in the National Assembly and the PNA winning only 36. Bhutto therefore gained a supermajority in the Parliament.

The PNA leadership was astonished when the results were announced by the Election Commission (EC) and prudently refused to accept the results and accused the Government of systematic rigging. According to "The Story of Pakistan",

At many places, particularly where the PNA candidates were strong, the polling was alleged to have been blocked for hours. There were also reports that PPP armed personnel in police uniform removed ballot boxes. Marked ballot papers were also found on the streets in Karachi and Lahore. Rumors quickly circulated that the results in key constituencies were issued directly from the Prime Minister's office.

According to author Ian Talbot, "The reality seems to be that a certain PPP victory was inflated by malpractice committed by local officials, which may have affected 30–40 seats."

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The PNA immediately called for street boycott and demanded resignation of Prime Minister Bhutto. The PNA used mosques to agitate the masses and caused severe civil unrests. At least 200 people were killed in the clashes between security forces and demonstrators.

Zia had already taken care of the Bhutto Loyalists, and had put to military trial one of the biggest names in Pakistan Army history; General Tajammul Hussain Malik war hero 1965 & 1971 to show Bhutto his loyalty. This did, however decrease his support within the army and it is believed several factions of the army that sided with Gen. Tajammul later caused Gen Zia's death. Bhutto responded with the use of Federal Security Force (FSF) and Police to control the situation as many activists of PNA were imprisoned. One leader of the PNA secretly wrote a letter to chiefs of staff of armed forces and chairman joint chiefs to intervene to end the crises; thus inviting armed forces to enforce martial law.

In 1977, one official of the Military Intelligence (MI) had persuaded Prime Minister Bhutto that martial law was imminent, and to speed up the negotiations with the PNA. The PPP realised the seriousness of the crises and political negotiations were started in June 1977. The PPP accepted almost all demands of the PNA and the stage was set for a compromise. The negotiations were stalled when Bhutto took the lengthy tour of Middle East countries and the PNA termed his tour as dilatory tactics. Furthermore, there was an impression created in the print media that negotiations were falling apart.

After the letter reached to the chiefs of staff of armed forces and chairman joint chiefs, there was a fury of meeting of inter-services to discuss the situation. When Bhutto returned to the country and in spite of the agreement was about to sign with the PNA. The military staged a coup against Bhutto to end the political crises.

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Coup:

Operation Fair Play was the code name for the military coup d'état conducted on 5 July 1977 by Pakistan Chief of Army Staff General Zia-ul-Haq, overthrowing the government of Prime Minister Zulfikar Ali Bhutto. The pretext for the coup was the failure of the ruling PPP and the opposition PNA to reach an agreement regarding fresh elections. The code name Fair Play was intended to portray the coup as the benign intervention of an impartial referee to uphold respect for the rules and ensure free and fair elections.

In announcing the coup, Zia promised "free and fair elections" within 90 days. He arrested Bhutto and his ministers, as well as other leaders of both the PPP and the PNA. He dissolved the National Assembly of Pakistan and all provincial assemblies, suspended the Constitution, and imposed martial law. A four-member Military Council, made up of Chief of Army Staff General Zia-ul-Haq as Chief Martial Law Administrator, the Chairman of the Joint Chiefs of Staff Committee, and the Chiefs of the Navy and the Air Force, took over government operations in the country. Bhutto and the PPP was persecuted on the charges of murder of political opponents.

Supreme Court

The Supreme Court and the Chief Justice of Pakistan Anwar-ul-Haq legitimatised the military response after issuing the Doctrine of necessity orders. On 24 October 1977, the Supreme Court began the trial against Bhutto on charges of "conspiracy to murder" Nawab Muhammad Ahmed Khan Kasuri.

In 1977, the Supreme Court found Bhutto guilty of murder charges and condemned him to death. Despite appeals of clemency sent by many nations, the government upheld the Supreme Court verdict and followed the Supreme Court orders when Bhutto was hanged in 1979.

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Soviet Union and United States

When the martial law took place, the whole world was quiet, and regional countries (such as India and China) did not issue any statements. Only two countries issued the statements over this issue. The USSR did not welcome the martial law and Bhutto's subsequent execution. The USSR harshly criticised the coup and Leonid Brezhnev condemned Bhutto's execution as an act out of "purely humane motives".

The US played an ambiguous role instead with many charging that the martial law was imposed with the willingness and "tacit" approval of the US and the CIA's involvement.

When allegations were levelled against the US by Pakistani historians and scholars, US officials reacted angrily and held Bhutto responsible for his act. Despite US denial, many authors, and the PPP's intellectuals themselves, held the US responsible and suspected the US of playing a "hidden noble role" behind the coup.

In 1998, Benazir Bhutto and the PPP publicly announced their belief in the electronic media that Zulfikar Bhutto was "sent to the gallows at the instance of the superpower for pursuing the nuclear capability [of Pakistan].

Aftermath:

Before the third martial law in 1977, Pakistan had been under martial law for nearly 13 years, and saw the wars with India which led to the secession of East Pakistan. The Martial law endured the toxic legacies of General Zia-ul-Haq's eleven years of authoritarian rule. It was marked by numerous human rights violations. A weak insurgent movement against General Zia's

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government was maintained inside the country by elements sympathetic to the former Bhutto government, but was met with great hostility from the United States and General Zia.

The martial law of 1977 ended in 1988 with the death of President Zia-ul-Haq and many other key military administrators in the government. Following this event, the country returned to democracy and the PPP again came in power. In 1999, martial law was again imposed against Prime Minister Nawaz Sharif by the armed forces, resulting in General Pervez Musharraf coming

ANSWER NUMBER 4

GOVERNMENT OF INDIA ACT 1935

After the failure of the Third Round Table Conference, the British government gave the Joint Select Committee the task of formulating the next Act for India. The Committee comprised of 16 members each from the House of Commons and House of Lords, 20 representatives from British India and seven from the princely states. Lord Linlithgoly was appointed as the president of the Committee. After a year and a half of deliberations, the Committee finally came out with a draft Bill on February 5, 1935. The Bill was discussed in the House of Commons for 43 days and in the House of Lords for 13 days and finally, after being signed by the King, was enforced as the Government of India Act, 1935, in July 1935. Both the Indian National Congress and the Muslim League opposed the Act, but participated in the provincial elections of winter 1936-37, conducted under stipulations of the Act. At the time of independence, the two dominions of India and Pakistan accepted the Act of 1935, with few amendments, as their provisional constitution.

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Splitting the Government of India Act, 1935: The Government of India Act, 1935 is said to have been the longest (British) Act of Parliament ever enacted by that time. It was a comprehensive statute with 321 sections and two schedules. Because of its length, the Act was retroactively split by the Government of India (Reprinting) Act 1935 into two separate Acts:

1. The Government of India Act 1935; and
2. The Government of Burma Act, 1935

The main features of the Act were:

- The Act turned the India into a federation, although the Constitution of the India was unitary.
- Provinces were granted autonomy and representative governments and in relation to the provinces a three-fold division of functions was created by forming three lists i.e. federal, provincial and the concurrent. Federation and provinces enjoy law making powers in respect of federal and provincial lists respective, however both federal and provincial law makers were competent to promulgate laws relating to the matters mentioned in the concurrent list. In case of any conflict the law of federation would, however, prevail.
- Partial responsibility in the form of diarchy at the center was created;
- The Governor General of India and the Governors of the provinces were granted almost unlimited power,
- The area of federal jurisdiction extended to the whole of British India including the states that had acceded at the time.

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- Under the Act new institutions like Federal Court, The Reserve Bank of India, Federal Railway Authority, and the Public Service Commissions for the federation and provinces were established.
- The Act prescribed the method whereby a state could join the federation and also provided for the legal consequences which followed from such accession. The Crown had the authority to accept or reject such accession but once a state had acceded to the federation it could not secede from the federation.

ADEQUACY OF INDIA ACT, 1935 AS A CONSTITUTION FOR PAKISTAN AFTER INDEPENDENCE:

At the time of its independence in August 1947, Pakistan inherited the Government of India Act of 1935 as its constitutional model - a framework designed by a colonial power to govern a colony that provided for a strong central government, a bureaucracy dominated executive unanswerable to the legislature, and very limited representation with continuation of feudal domination over politics. After death of Quaid-e-Azam and Liaquat Ali Khan, the biggest hurdle which hampered the progress in constitution-making was provincial and parochial feeling. Second great problem was the determination of the character of the Constitution to be framed. Though in principle the federal system was accepted as the form of government, however there was serious conflict between the two wings of the country, on the details of the federal.

ANSWER NUMBER 6

INTRODUCTION:

The taking over of government by Gen Musharraf on 12 October 1000. Proclamation of Emergency of the 14 October and Provisional Constitution Order No. 1 of 1000 as amended. Were challenged before the Supreme Court under Article 184(3) of the Constitution through several petitions, which were disposed of by means of a Short Order passed in the case reported as Syed Zafar Ali Shah General Perverz Musharraf, Chief Executive of Pakistan (PLD 2000 SC 869)

FACTS AND PRINCIPLES:

In the said case the Supreme Court of Pakistan examined the following facts and laid down the principles as under:-

- It was held by the Supreme Court that on 12th October 1999 a situation arose for which the Constitution provided no solution and intervention by the Armed Forces through an extra-Constitutional measure became inevitable and the said act was validated on the basis of the doctrine of state necessity and the principle *salus populi suprema lex* as embodied in Begum Nusrar Bhutto's case (PLD 1977 SC 657).
- It was further held that the 1973 Constitution would remain supreme law of the land subject to the condition that certain parts thereof would be held in abeyance on account of state necessity.

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- Upholding the Military Government's legitimization arguments, the Supreme Court added that as the Constitution did not offer any solution for the political crisis under the previous regime, the military intervention was inevitable. Further, the Court ignored the Oath of Office Judges' Order 2000 and the March 2000 ban on public rallies in concluding that there was an implied consent of the governed".
- Thus, the people of Pakistan in general, including politicians and parliamentarians, were deemed to have consented to the coup, as no protests had been launched against the army take-over and / or its continued rule
- Explaining the term "Chief Executive", the court observed that the term "Chief Executive" means President where there is a Presidential form of Government and Prime Minister in a Parliamentary form of Government. By means of the proclamation of Emergency as also the PCO 1 of 1999, the Constitution has only been held in abeyance and the country is to be run as nearly as may be in accordance with the Constitution, therefore, General Pervez Musharraf, while taking over the affairs of the country, assumed to himself the title of "Chief Executive". Since practically, he is performing the functions of the Prime Minister, he holds the position of Chief Executive in the scheme of the Constitution.
- The Court held that if the Parliament cannot alter the basic features of the Constitution i.e. independence of judiciary, federalism and parliamentary form of Government blended with Islamic Provisions, power to amend the Constitution cannot be conferred on the Chief Executive of the measure larger than that which could be exercised by the Parliament. Clearly, unbridled powers to amend the Constitution cannot be given to the

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Chief Executive even during the transitional period even on the touchstone of State necessity. Resultantly, the power of the Chief Executive to amend the Constitution is strictly circumscribed by the limitations laid down by the Supreme Court.

- On the issue of removal of judges the Supreme Court opined that the judges of the Supreme Court and High Courts cannot be removed without resorting to the procedure prescribed in Article 209 of the Constitution. However, it clarified that the cases of the Judges who ceased to be Judges of the Supreme Court and High Courts by virtue of Oath of Office (Judges) Order, 2000, however, was hit by the doctrine of past and closed transaction and could not be re-opened.
- It is a well-settled principle that in such situations the Court may refuse relief in respect of a particular decision, but go on to determine the general question of law or interpretation that the case raises.
- Chief of the Army Staff and Chairman, Joint Chiefs of Army Staff Committee being a holder of constitutional post, his arbitrary removal in violation of the principle of *audi alteram partem* was *ab initio* void and of no legal effect.

ANSWER NUMBER 7

INTRODUCTION:

After independence, Pakistan's political institutions remain weak while Army begins to assume more powers which cause several martial laws in the country. Judiciary plays a important role in the interpretation of 1904 in the statutes and laws.

FACTS OF CASE

Following are the facts of case:

- a) **Allegation of official interference:** Opposition parties alleged that there was official interference with elections of 1977 in favour of ruling party of Prime Minister Zulfiqar Ali Bhutto.
- b) **Anti Bhutto movement** Opposition parties did not accept results ar elections of 1977 and started anti-Bhutto movement
- c) **Military Coup:** Prime Minister Zulfiqar Ali Bhutto's dialogues with opposition leaders failed to stop military interference, and eventually General Zin-ul-Haq dismissed his government through military coup and imposed martial law
- d) **Arrest of Zulfiqar Ali Bhutto:** With imposition of martial law. Zulfiqar Ali Bhutto was arrested. However, later on he was released by the military government
- e) **Re-arrest:** After his release, Zulfiqar Ali Bhutto started public campaign, which eventually caused not only heart but also arrest of his colleagues

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- f) **Institution of Case:** Against re-arrest of Zulfiqar Ali Bhutto, Beguen Nusrat Bhutto filed this case against Chief of Amy Staff

DECISION OF THE SUPREME COURT

The Supreme Court dismissed the petition unanimously as not being maintainable for the following Reasons:

The Court observed that the Prime Minister was facing difficulty to maintain law and order. There was political crisis in country leading to constitutional breakdown. A situation had arisen for which Constitution provided no situation. It was in these circumstances that Chief of Army Staff General Muhammad Zia-ul-Haq intervened to save country from chaos and bloodshed to safeguard integrity of Pakistan and to separate warring factions, which had brought country to brink disaster. It is clear that objection is only in the nature of technicality. The Chief of Army Staff is also CMLA and the objection could be rectified by adding words CMLA LO the description of respondents as stated in petition The Chief Martial Law Administrator was justified in providing in Article 2(3) of Law (Continuous in Force) Order 1977 that right to enforce fundamental rights shall be suspended

PRINCIPLES LAID DOWN:

- **Kelsen's theory:** Kelsen's pure theory of law is not universally accepted, and is not consistent for full application in all revolutionary situations coming before courts for adjudication as to validity of new legal orders resulting from such revolutions, The theory has no relevance where breach of legal continuity is admitted or declared to be of a pure temporary nature and for a limited specific purpose because such phenomena is one of

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theory to such transient and limited change in the constitutional continuity of a country is inappropriate.

- **The case of Madzimbamuto:** Madzimbamuto, [1968]3 All E.R. 561 cannot be regarded as judicial authority for the proposition that effectualness of new regime provides its own legality: considerations of morality and justice cannot be excluded from the concept of law and legality.
- **Doctrine of necessity:** The doctrine of necessity and the principle embodied in the maxim *salus populi est supreme lex* is accepted not only in the Islamic jurisprudence but in other systems as Well.

ANSWER NUMBER 5

FRAMING THE CONSTITUTION:

The second Constituent Assembly had also the advantage of profiting from the deliberations and work of its predecessor. It successfully utilized the groundwork done by the first Constituent Assembly and had no need to appoint various committees and sub-committees as had the first Constituent Assembly. Reports of committees and sub- committees were ready for the work of the second Constituent Assembly. In fact, most of 245 Articles in the draft Constitution reflected little change from those which had been rejected in October 1954 as coming from an Assembly unrepresentative of the people.

DIFFICULTIES FACED:

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But the difficulties of the second Constituent Assembly should not be ignored or minimized. Unlike the first Assembly, it had no party with an absolute majority. The ruling coalition party of the United Front and the Muslim League had within its fold several component groups holding diametrically opposite views on fundamental constitutional issues. The old issues of conflict such as the relation of the electoral term stand best and others were tensed and se varices groups within the ruling party were sharply divided on these problems. The Hindu Congress and the United Progressive Party threatened to the opposition benches of joint sector we not conceded while the Nizam Islam and the Muslim League, The important groups of the coalition party would have nothing to do with a joint electorate Even as dates December 1955 there seemed to be little prospect of a compromise. During November and December, the Constituent Assembly was repeatedly adjourned because the coalition party could not resolve its differences, it seemed that the country had once again been brought to the verge of ruin. The different groups in the party resorted to pressure tactics to get their demands incorporated in the Constitution. As a result of these internal conflicts, the constitution which finally emerged was a poor product, judged by any criteria, based on compromises and expediency rather than on sound principles The draft Constitution published on 8 January 1956 was the product of four months labour by a committee of the ruling coalition party. The draft consisted of thirteen parts, covering 245 Articles. The Objectives Resolution which had been passed by the first Constituent Assembly in 1949 was included in its preamble with one new cause.

Whereas the founder of Pakistan, Quaid- Azam Muhammad Ali Jinnah declared that Pakistan would be a democratic state based on Islamic principles of social justice Part 1 of the draft defined the territories of Pakistan; Part II dealt with fundamental rights; Part III with directive principles of state policy; Part IV with the federal government and legislature; Part V with

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provinces and provincial governments, Part VI with relations between the federation and provinces: Part VII with property, contracts and suits, Part VIII with elections, part IX with the judiciary, Part X with the services of Pakistan Part XI with emergency provisions, Part XII with general provisions and Part XIII with temporary and transitional provisions. The draft was in many respects a replica of the draft Constitution made by the first constituent Assembly Pakistan was to be a federal republic consisting of East and West Pakistan and would be called the Islamic Republic of Pakistan. It was based on the British parliamentary system. Though it provided for a President and a Vice President real power was vested in the parliament and its executive, the Cabinet.” But under the new draft, the powers of the President were enlarged as compared with those proposed in the draft of the first Constituent Assembly and it had subsequently to be amended. The draft envisaged a Constitution much simpler in structure, with a single chamber equally representative of the two wings instead of a complicated two-tier legislature with representation based on two principles. The unicameral legislature, to be called the National Assembly, would consist of three hundred members to be elected on the basis of parity between East and West Pakistan The draft provided for a strong centre. Its framers were guided by the principle that maximum autonomy should be granted to the provinces but this should be consistent with national integrity and solidarity. They recognized that a weak centre would bring disaster to the country and that while it need not be all-embracing, the centre must be sufficiently strong and effective to guide and control the provinces. The same principle had been the guiding factor with the first Constituent Assembly. The provincial list under the new draft was larger including Industries and Railways, residuary powers however were to be vested with the provinces, unlike in the previous draft

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Political Reaction to the Draft Constitution

The publication of the new draft Constitution was met with mixed political reaction. The Muslims League, the United Front, the Nizam-i-Islam, and other political parties reacted favourably, although there was a demand for the amendment of several controversial Articles. It was only the Awami League and some Hindu and Leftist parties in East Pakistan that voiced an outright condemnation of the draft and demanded that it be scrapped. The Awami League insisted that it could not accept a constitutional scheme which failed to incorporate the famous 'Twenty-one Point' programme made at the time of the East Pakistan provincial elections in 1955. This manifesto of the United Front and the Awami League was a fundamental creed with the United Front at that time which conferred only three subjects on the centre: defence, currency, and foreign affairs.

The practical difficulties of restricting the powers of the centre became immediately apparent and the United Front Party under its chief architect, Fazlul Haq, agreed to modify this unrealistic demand. The Awami League, had it been in power, would probably have come to the same realization. But its exclusion from power made it uncompromising and hence it continued to press for this stipulation. It organized a powerful campaign in East Pakistan against the draft. There were demonstrations, public meetings, a "Resistance Day" strike and to crown it all, the chief of the Awami League in East Pakistan, Maulana Bhashani, was reported to have threatened secession. At a public meeting held in Dhaka on 15 January he said that if the centre did not right the wrong East Pakistan would have to think in terms of secession. Yet in 1956 when Suhrawardy became the prime minister, he had no hesitation in describing the Constitution as guaranteeing provincial autonomy up to 98 per cent.

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The economic discontent in East Pakistan, reflected in repeated political agitation, had important bearings on constitution-making in Pakistan. The consequent apprehensions and misgivings in the eastern wing probably provide the basic explanation of East Pakistan's opposition to a strong national government.

Final Approval by the Constituent Assembly

When the draft containing 245 Articles came up for detailed consideration by the Constituent Assembly, notices of as many as 670 amendments were given, mostly proposed by the members of the opposition party, the Awami League. The members of the ruling coalition party also brought a number of amendments. Out of 245 Articles of the draft, 179 were passed quickly; the remaining 66 Articles were regarded as being highly controversial, some of them being the subject of acute division within the ruling coalition party. Some of the important Articles in dispute related to: the powers of the President, particularly his right to dissolve the legislature at his discretion.

ANSWER NUMBER 8

INTRODUCTION:

The Constitution of Pakistan 1973 was enforced in the country on 14th August 1973. The Constitution of Pakistan 1973 was enforced in the entire country at once.

The Prime Minister Mr. Zulfikar Ali Bhutto said, "this constitution is made for everlasting time". But we have seen that since its inception to date the Constitution of Pakistan 1973 was amended

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from time to time for sake of public and many a time for sake of personal satisfaction. Till 2019 there are 25 amendments that have been made in the Constitution of Pakistan 1973.

AMENDMENTS DATE:

#	Amendments	Proposal date	Enactment date
1st	Redefined the boundaries of Pakistan and removed references to East Pakistan.		8 May 1974
2nd	Defined a Muslim and declared the status of Ahmadis as minority and 'non-Muslim'.		21 September 1974
3rd	Extended the period of preventive detention.		18 February 1975
4th	Decreed additional seats for minorities, it also deprived courts of the power to grant bail to any person detained under any preventive detention.		21 November 1975
5th	Widened the scope of restriction on the High Courts.		5 September 1976

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6th	Provided that Chief Justice of Supreme Court will be retired at the age of 65 and High Court judges at age 62.		22 December 1976
7th	Enables the Prime Minister to obtain a vote of confidence of the people of Pakistan.		16 May 1977
8th	Changed Pakistan's government from a Parliamentary system to a Semi-presidential system by giving the President a number of additional powers.		11 November 1985
9th	Bill to impose Shariah law as the supreme law of land. The bill was passed by Senate but could never be passed by National Assembly owing to the latter's dissolution.	1985	Not passed
10th	Fixed the interval period between sessions of the National Assembly to not exceed 130 days.		29 March 1987
11th	Revision of the reserved seats for women in the	1989	Not passed

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	National and the provincial assemblies. The bill was withdrawn in 1992.		
12th	Created Speedy Trial Court for 3 years.		1991
13th	Stripped the President of Pakistan of his reserve power to dissolve the National Assembly of Pakistan, and thereby triggering new elections and dismissing the Prime Minister.		1997
14th	Allowed members of parliament to be dismissed if they defect.		3 July 1997
15th	Bill to impose Shariah law as supreme law of land. Was never passed.	1998	Not passed
16th	Increased the term appointed for quota system as per 1973 Constitution from 20 to 40 years.		1999
17th	Made changes dealing with the office of the President and the reversal of the effects of		2003

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	the Thirteenth Amendment.		
18th	Removed the power of President of Pakistan to dissolve the Parliament unilaterally.		8 April 2010
19th	Provided for the appointment of the Judges of the Supreme Court of Pakistan and made amendments in the number of members of the parliamentary committee for the appointment of Chief Electoral Officers at Election Commission of Pakistan.		22 December 2010
20th	For Free and Fair Elections. ^[1]		14 February 2012
21st	For Speedy Trial Military Courts to deal with terrorism.		7 January 2015
22nd	ECP powers deputed to Chief Election Commissioner ^[2]		8 June 2016
23rd	The 23rd Amendment was passed to re-establish the military courts for further two years till 6 January		7 January 2017

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	<p>2019.^[3] In 2015, National Assembly passed the 21st Amendment and created the military courts for the period of 2 years. The period of two years was expired on 6 January 2017 hence this 23rd Amendment was passed to re-establish the military courts for further two years till 6 January 2019. At the end of this period all the amendments will be expired/removed automatically.</p>		
24th	<p>Reallocation of National Assembly seats among federating units and allowing election authorities to update boundaries of constituencies based on provisional results of 2017 Census of Pakistan.</p>		22 December 2017
25th	<p>Merges Federally Administered Tribal Areas with [[Khyber Pakhtunkhwa</p> <p>26th Amendment passed on 13 May 2019>> Constitutional (Amendment) Bill,: Under this amendment the seats of tribal districts in NA will retain at 12 while their seats in the Khyber Pakhtunkhwa have been increased to 24 from 16.]]</p>	2018	31 May 2018

2ND AMENDMENT 21 SEPTEMBER 1974:

The following Act of Parliament received the assent of the President on the 17th September, 1974, and is hereby published for general information:

Whereas it is expedient further to amend the Constitution of the Islamic Republic of Pakistan for the purposes hereinafter appearing:

It is hereby enacted as follows:

1. Short title and commencement:

(1) This Act may be called the Constitution (Second Amendment) Act, 1974.

(2) It shall come into force at once.

2. Amendment of Article 106 of the Constitution:

In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 106, in clause (3), after the word “communities”, the words and brackets “and persons of the Qadiani group or the Lahori group (who call themselves ‘Ahmadis’)” shall be inserted.

1. Amendment of Article 260 of the Constitution:

In the Constitution, in Article 260, after clause (2), the following new clause shall be added, namely:

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“(3) A person who does not believe in the absolute and unqualified finality of the Prophet hood of Muhammad (peace be upon him) the last of the Prophets or claims to be a Prophet, in any sense of the word or of any description whatsoever, after Muhammad (peace be upon him), or recognizes such a claimant as a Prophet or a religious reformer, is not a Muslim for the purposes of the Constitution or law.”

3RD AMENDMENT 18 FEBRUARY 1975:

The following Act of Parliament received the assent of the President, on the 13th February, 1975, and is hereby published for general information:

Whereas it is expedient further to amend the Constitution of the Islamic Republic of Pakistan for the purposes hereinafter appearing:

It is hereby enacted as follows:

1. Short title and commencement:

(1) This Act may be called the Constitution (Third Amendment) Act, 1975.

(2) It shall come into force at once.

2. Amendment of Article 10 of the Constitution:

In the Constitution of the Islamic Republic of Pakistan, hereinbefore referred to as the Constitution, in Article 10,

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(a) In clause (4), for the words “one month” twice occurring the words “three months” shall be substituted;

(b) in clause (5), for the words and comma “as soon as may be, but not later than one week” the words “within fifteen days” shall be substituted; and

(c) in clause (7), in the proviso, after the word “enemy”, the commas and words, “or who is acting or attempting to act in a manner prejudicial to the integrity, security or defence of Pakistan or any part thereof or who commits or attempts to commit any act which amounts to an anti-national activity as defined in a Federal law or is a member of any association which has for its objects, or which indulges in, any such anti-national activity” shall be added.

4. Amendment of Article 232 of the Constitution:

In the Constitution, in Article 232, in clause (7), for paragraph (b) the following shall be substituted, namely:—

“(b) shall, subject to the provisions of paragraph (a), cease to be in force upon a resolution disapproving the proclamation being passed by the votes of the majority of the total membership of the two Houses in joint sitting.”

10TH AMENDMENT 29 MARCH 1987:

The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on the 25th March, 1987, and is hereby published for general information:

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Whereas it is expedient further to amend the Constitution of the Islamic Republic of Pakistan for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. Short title and commencement:

(1) This Act may be called the Constitution (Tenth Amendment) Act, 1987.

(2) It shall come into force at once.

2. Amendment of Article 54 of the Constitution:

In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 54, in clause (2), in the proviso, for the word “sixty” the word “thirty” shall be substituted.

Amendment of Article 61 of the Constitution:

In the Constitution, in Article 61, for the words “one hundred and sixty” the words “one hundred and thirty” shall be substituted.