



Aware: The Most Unaware (A Reflection of Constitutional Understanding of the Educated People of Pakistan Regarding Human Rights)

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Abstract:

Constitutional processes are marked by original and ongoing negotiations. There is often no closure to the constitution-making process (Hart 2001; Tully and Chambers 1998). Pakistanis have experienced activities related to the making or revision of constitution but despite all efforts most of the people of Pakistan remained unaware about the importance of constitution so far as human rights are concerned. This article focuses on the importance, knowledge, and development of constitution and its clauses related to human rights by conducting interview of 100 high educated people who are either studying or professionals in different walks of life after having completed 14 years of schooling. The findings of the study reflect that high educated people seem to have either very casual attitude towards the process of democracy or appear to be least concerned with constitutional development in the country. A majority of respondents knows only one definition of democracy and human rights and similarly has not read constitution of Pakistan or even single clause given in the constitution related to citizen rights and is found least interested in 18th amendment, etc. Hence, the study suggests that relevant parts of constitution must be included in the curricula of the Universities keeping in view the need of the Pakistanis and media should play a nucleus role to educate people regarding the awareness about the importance of human rights. The study recommends that by equipping the graduates with such knowledge will pave way to ensure peaceful future to posterity as it has been found that educated people have started preferring bread and butter to such awareness and feel satiation of hunger is bigger requirement than awareness about the constitution, as the study manifests.

1. Background And Introduction

Constitutional government is an ideal, and like all ideals it can be achieved only as an approximation. Even the countries that appear to be near the ideal are revealed on examination to be not so near. Constitutional government, to the extent it is achieved, reflects a state of affairs that remains under constant threat from power seekers, ideological opponents, ill-informed social engineers, and manipulative special interests. It is also being eroded in the postindustrial era through a serious depletion of social capital, weakening the institutional foundations of constitutional government (Fukuyama, 2000). But on the other hand we see that the countries with the greatest institutional deficits are also the ones least capable of coping with humanitarian catastrophes, whether manmade or natural (Sen, 1999). And Pakistan could be included among them without keeping in view any expediency.

The present (2008) projected literacy rate for Pakistan is 56% (male 69%: female 44%): Punjab 60.2%, Sindh 57.7%, Khyber Pukhtonkhawa 49.9%, and Balochistan 48.8%. However, only 2.9% Pakistanis were enrolled in higher education in 2004 that undoubtedly reflects bleak picture of the state of affairs we are facing in higher education. The total enrolment at degree colleges' stage is 352,303 whereas the total enrolment in the universities is 741,092 in the year 2008. But so far as higher education is concerned there are total 1,202 degree colleges of which 826 (69%) are in public sector, whereas 376 (31%) are in private sector. The total enrolment at degree colleges stage is 352,303 of which 320,786 (91%) is in public sector, whereas, 31,517 (9%) is in private sector. The total boys enrolment at degree colleges stage is 138,097 (39%), whereas, the girls enrolment is 214,206 (61%). The total teachers at degree colleges level are 20,971, out of which 15,763 (75%) is in public and 5,208 (25%) are in private sector. There are 10,281 (49%) male teacher and 10,690 (51%) are female teachers. There are total 124 universities of which 68 (55%) are in public sector, whereas 56 (45%) are in private sector. The total enrolment in the universities is 741,092 of which 637,037 (86%) is in public sector, whereas, 104,055 (14%) is in private sector. The total male enrolment in the universities is 398,967 (54%), whereas, the female enrolment is 342,125 (46%). The total teachers in the universities are 46,893, out of which 38,266 (82%) is in public and 8,627 (18%) are in private sector (Pakistan Education statistics: 2007-08).

Although alarming but when we see that there are people who are trying to attain higher education we start thinking about the better future of this country by feeling that they will contribute in transferring their awareness about the importance of democratic

government, human rights through constitution, and citizenship, etc. For example in the recent debates on 18th amendment it was thought that this was the biggest achievement of the present government and it became the center of attention of almost all the stakeholders of the country but irony of fate is that most of the people talked about the transfer of powers from President to the Prime Minister; as well as provincial autonomy, etc., and nothing of the people who should be the ultimate beneficiaries.

We have also seen that except some, most of the corners didn't try to highlight the importance of human rights for which a majority of people of this country is waiting to have since independence. Human rights can be defined as the rights of all individuals regardless of sex, race, colour, language, national origin, age, class or religious or political beliefs to certain fundamental freedoms (Women's Human Rights Step by Step). Human rights are universal, inalienable, indivisible and interrelated (Vienna Declaration and Programme of Action, 1993).

It is growing day by day but it is apt to see whether or not this educated class is concerned with democratic system by having awareness about the constitution that provides people a complete social system to live in the state. It could be accepted that economic stability shuns off many social problems but it is also important to note how this class contributes in the making of Pakistan a true democratic country through their active involvement.

It is great achievement of Pakistan to have constitutional government after nine years' dictatorship and it is important to refer to Suri Ratnapala who says that constitutional government requires its appreciation and acceptance by critical sections of the intellectual community—persons whose actions and decisions shape higher-order institutions as well as others who influence them strongly. This community includes government ministers, legislators, judges, senior civil servants, statutory authorities, trade union heads, leaders of important nongovernmental organizations, and powerful business people, as well as opinion shapers such as university professors, clergy, journalists, authors, producers, directors, and entertainers of various kinds (Ratnapala, 2003).

The above sheds light on the role of educated people of a society that calls itself a constitutional/democratic and their indifference to the objectives of constitution could affect otherwise. Hence, it is very important that this particular class must play its assigned role in the democratic process of the country.

2.Objective, Methodology And Research Questions Of The Study

This qualitative study was conducted, through interview, on one hundred graduates who were either studying or professionals in different walks of life to know their understanding about constitution or constitutional development in Pakistan particularly with reference to human rights and their importance in a democratic country. It also aimed to find out (answer the question of) the seriousness of high educated class in Pakistan pertaining to citizen/human rights given in the constitution of Pakistan as well as their priority in the present political scenario. The subjects were asked the following questions for the findings of the study.

3.Interview Questions

- How would you define democracy?
- Do you think for democracy constitution is necessary? How?
- Do you know how many constitutions have been made since independence in Pakistan? Can you name them?
- What makes a 'Republic'? What are your views?
- Is Pakistan a 'Republic'?
- Have you read 1973 constitution of Pakistan or some of its clauses?
- Do you know about 18th amendment?
- Have you read the text of 18th amendment or some of its parts?
- Have you ever read something about the citizen rights/human rights given in the constitution of Pakistan?
- What is the importance of human rights in country?
- Do you think a constitution gives guarantees of human rights? Can you elaborate?
- What do you feel about the requirements of the people of Pakistan in the present time?

4.Review Of Literature

The constitution provides the overarching legal framework for a country. It is the highest form of legal authority in a state, and no other laws enacted by the government can contradict it. Constitutions are usually, but not always, written documents. The constitution contains the fundamental principles of government and enshrines the basic

rights of individuals in relation to the state. It also establishes the basis for political and judicial systems (What is Constitution?). At the same time the spread of constitutional review has both ideational and institutional underpinnings. Constitutional review is closely associated in the popular mind with what has been characterized as the most important idea of the twentieth century, the notion of human rights (Henkin, 1990).

Around the world, a growing crisis of legitimacy characterises the relationship between citizens and the institutions that affect their lives. In both North and South, citizens speak of mounting disillusionment with government, based on concerns about corruption, lack of responsiveness to the needs of the poor and the absence of a sense of connection with elected representatives and bureaucrats (Commonwealth Foundation 1999; Narayan et al. 2000).

During the late 1990s, several parallel shifts in development thought have given rise to the emergence of 'citizenship' as an area of debate. The focus of participatory development, long rooted in concern with participation at the project level (often apart from the state) began to turn towards political participation and increasing poor and marginalized people's influence over the wider decision-making processes which affect their lives (Gaventa & Valderrama 1999; Cornwall 2000). Alongside this shift was the rise of the 'good governance' agenda and its concerns with increasing the responsiveness of governments to citizens' voices (Goetz & Gaventa, 2001).

Human rights have become particularly important in contemporary constitutions, especially for mobilizing and developing the constitution: they give the people space to organize and aggregate interests, and the authority to challenge state institutions. The 'mobilization' of rights does not depend on the state, but on the people. Rights give people tools to protect themselves and to compel the state to take specified action (many contemporary rights regimes being highly programmatic). Rights are no longer devices for maintaining the status quo, as was the case in the US constitution, but are means critical for dynamic change and they assume an active citizenry (Ghai, 2001).

To be meaningful, arguments for participation and institutional accountability must become grounded in a conception of rights which, in a development context, strengthens the status of citizens from that of beneficiaries of development to its rightful and legitimate claimants (Cornwall, 2000). UNDP Human Development Report 2000 argues that 'the fulfillment of human rights requires democracy that is inclusive'. For this, elections are not enough. New ways must be found to 'secure economic, social and

cultural rights for the most deprived and to ensure participation in decision making' (UNDP 2000: 7–9).

Avagian & Miroumian (2009) say that within the last century the role of the safeguard for universal human stability was mainly reserved to the Fundamental Law of a state, a written constitution which, enshrining the goals emanating from the common civilizational values of a particular society and the fundamental principles of social existence, stipulates the basic rules of social behavior, the nature of relations between the individual and the state, the procedure and the limits for the exercise of power, creating a necessary environment based on social accord conducive for the full implementation of the human potential for creation and progress. This becomes possible at a certain stage of development of civilization and social conscience. The human community, as a system of social cohesion, dates back to about ten millennia, whereas constitutionally regulated nation-state. It surely generates awareness about rights which are normally called human rights.

Human rights can be defined as the rights of all individuals regardless of sex, race, colour, language, national origin, age, class or religious or political beliefs to certain fundamental freedoms (Women's Human Rights Step by Step). Human rights are universal, inalienable, indivisible and interrelated ("Vienna Declaration and Programme of Action, 1993). Although modern human rights laws were formulated in the wake of World War II, they have ancient and global origins. The great religious traditions—Buddhism, Christianity, Confucianism, Hinduism, Judaism and Islam—include such universal human rights tenets as the responsibility of human beings towards others and respect for human dignity. Philosophies around the world have long explored the nature of relations between individuals and the moral responsibilities of individuals within Society (Lauren, 1998).

Amendment XVIII (the Eighteenth Amendment) of the Constitution of Pakistan, was passed by the National Assembly of Pakistan on April 8, 2010, removing the power of the President of Pakistan to dissolve the Parliament unilaterally, turning Pakistan from a semi-presidential to a parliamentary republic, and renaming North-West Frontier Province to Khyber Pakhtunkhwa. The 'historic' bill reverses many infringements on Constitution of Pakistan over several decades by its military rulers. After XVIII the present Government has also unanimously passed the amendment claiming to have done 'Hercules' task. Shahid Javed Burki writes that there cannot be any doubt that the 18th amendment will have a profound impact on the way the country is governed and its

economy is managed. If the federating units – the provinces – receive additional powers as a result of the abolition of the concurrent list put into the 1973 constitution by its framers, it will mean transferring large amounts of economic authority to the provinces. They will, for instance, have the right to manage labour laws; environmental impact of development in both the public and the private sectors of the economy; generation of much larger amounts of electricity than currently permitted; development of infrastructure; movement of goods and commodities within their own boundaries; improving the level of education and providing for the acquisition of usable skills by the populace (Burki, 2010).

It is pertinent to write that on 29 October 2004 in Rome, Heads of State and Governments from the 25 Member States of the European Union signed a Treaty establishing a Constitution for the Union. But on 20 February 2005, the Spanish became the first Europeans to go to the polls for a referendum on the Constitution's text. With 76.72% voting 'Yes' in a 42.32% voter turnout, the Treaty establishing a European Constitution obtained the approval of the Spanish people in a consultative referendum, a process which has only been used on three previous occasions: the ratification of 'la Ley de Reforma Política' (Political Reform Law, 1976), the Spanish Constitution (1978), and to decide upon the country's continued membership of NATO (1986). Has it been asked the way Europeans have done? The answer may be in the negative.

There is no denying the fact that constitution of a country is such a document that provides the entire socio-economic structure for the people. The elements of civil society range from groups based on religion and ethnicity to more fluid voluntary associations organized around ideology, professionalism, social activities or the pursuit of money, status, interest, or power. They range from circles of friends ... to single purpose political advocacy groups. Civil society also includes communities, like formally organized religious settlements, with their implication of primary socialization, strong attachment, and common history and expectations (Post & Rosenblum, 2002: 3). Nor is there any disagreement about including in civil society the great variety of social movements, village and neighbourhood associations, women's groups, religious groupings, intellectuals, and where they are reasonably free, the press and other media, civic organizations, associations of professionals, entrepreneurs, and employees, whose purposes and direction are not controlled by the institutions of state (Hawthorn, 2002: 276).

There is a perception that civil society promotes true democratic system as well as generates such environment in which state starts finding it accountable to citizens. But how does it contribute for the consolidation of democracy? Schmitter listed: it stabilizes expectations within social groups; inculcates conceptions of interest and norms of behaviour that are civic; it provides channels for self-expression; serves to govern the behaviour of its members with regard to collective commitments; and provides important reservoirs of resistance to arbitrary action by rulers (1995: 60). On the contrary a majority in Pakistan is indifferent to the importance of constitutional awareness because it seems that feudal forces (constitutionally aware sections) in a country like Pakistan have not allowed even the highly educated people to read, comprehend or practice constitution in true letter and spirit either directly or indirectly.

5. Findings And Conclusion

A majority of respondents appeared to be very excited about the role of democracy by defining it in a clichéd manner without knowing the importance of the crammed definition of democracy and were of the opinion that democracy is very important for Pakistan. It is interesting to mention that while commenting on the economic state of affairs in the country most of the respondents compared present democracy with previous dictatorship and looked little suspicious about democracy or democratic system. The results also manifest that subjects were not clear about the term 'republic' or the ingredients that make a country republic. At the same time most of the respondents showed sort of inability to know constitutional development in the country and have been found unclear about the exact constitutional development. Respondents were found less comfortable while responding to the question about the constitutional development in the country as most of them have not read either of the constitution and particularly 1973 constitution on whose restoration the present government feels proud of.

Similarly the respondents knew much about the debates occurred on media on 18th amendment but were didn't know anything of it except that through this province are going have provincial autonomy. The most alarming part of the responses is the knowledge of the respondents about human rights which almost every one is conscious of but the essence of the same was beyond their understanding as the results tell us. Moreover, it is pertinent to mention that the respondents didn't know such clauses/parts of the constitution that guarantee human rights in the country because, according to

them, they never read the constitution of Pakistan except the part which was included in the syllabus in the courses of studies as a compulsion.

The researcher is not in the position to determine the causes of such negligence but at least could say that fewer efforts have been made by the privileged section of the country to train the nation to delve deep understanding to know duties and rights of a citizen. As we have seen that most of the respondents expected much from the government without mentioning their duties which reflects that people are lead by those who know constitution well and generate public opinion resulting in the supremacy of dominating class that could exploit constitution according the way they like leaving a lot for the common people, even the highly educated ones, to desire.

6.Implications

In light of the findings and discussion, the study draws the following implications:

- Government should take such measures that could guarantee compulsory secondary education and steps should be taken to include human rights components in the courses of studies from secondary education.
- No syllabus be deemed complete without necessary constitutional parts that manifest humans/citizen rights' education.
- Universities should take appropriate steps to orientate their graduates in human rights education.
- Media could play a vital role by arranging such discussions where human rights are elaborated for practical purposes.
- State governed television could pave way by starting programmes where importance of the knowledge about human rights is discussed by the scholars and other concerned people.
- Seminars should be arranged to educate people of Pakistan about the significance of human/citizen rights and its benefits.
- It is strongly suggested that T.V channels must make indirect human rights education a part of their entertainment programmes because such programmes are mostly viewed by public.

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