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## **CONSTITUTIONAL PROVISIONS IN PAKISTAN AND ISLAMIC TEACHINGS: A SYNERGISTIC APPROACH TOWARDS UPHOLDING THE INHERENT ‘HUMAN DIGNITY**

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**Abstract:** The Constitution of Pakistan in 1973 as the paramount legal document, provides a structure for the safeguarding and advancement of individual liberties and dignity. The source of motivation for this phenomenon can be traced back to Islamic values. This study aims to examine the interdependent correlation between the Constitution of Pakistan and Islamic teachings, emphasizing their mutual dedication to upholding the protection of human dignity. The Constitution of Pakistan has incorporated fundamental rights that align with the principles of Islamic teachings. These fundamental rights encompass the entitlement to life, the principle of legal equality, the right to hold personal beliefs, and safeguards against torture or degrading treatment. These provisions are indicative of the Islamic doctrine that recognizes intrinsic respect for all individuals. The present study will utilize a qualitative research methodology to investigate the reciprocal connection between specific constitutional provisions and corresponding Islamic teachings about human dignity. This article will encompass a synergistic approach to the analysis and implementation of these values within the framework of both legal and communal environments. Its objective is to provide insight into the mutual dedication to preserving the inherent dignity of individuals, thereby making a valuable contribution to the current debate on human dignity in Pakistan.

**Keywords:** Dignity of man, Constitution, Islam, Rights, Pakistan

## **Introduction**

Man has been created as a supreme entity on Earth. Allah Almighty declared him as vice-regent on earth and delegated special powers to him. It is undisputed that such a superb creation cannot be degraded or subdued under any coercive acts of violence, repression, and exploitation. He is not a victim but a savior to safeguard the rights of his fellow beings as well as of other creatures on Earth. Constitution is the topmost law of the country and all regulations by-laws ought to operate subservient to it. The provisions of the Constitution will prevail in case of any confrontation between the Constitution and the ordinary laws of the land. Constitution is the first and foremost piece of legislation to operate superseding all other laws of the land. It is the prime document according to which various organs of the state are made functional and operative. The Constitution of the Islamic Republic of Pakistan 1973 (herein called the constitution) was ratified and conceded by the constituent assembly after comprehensive parliamentary debates and a long evolutionary procession. It is sometimes referred to as a shared bond between citizens residents and the government. Constitution acknowledges the significance of social justice, equity, and compassion, which are principles that have strong foundations in Islamic injunctions.

The legal and ethical fabric of Pakistani communities is significantly influenced by Islamic rulings. Islamic teachings place significant emphasis on the intrinsic worth of human existence, the recognition and regard for the inherent worthiness of all individuals, and the fundamental significance of fairness and parity. Islam promotes safeguarding individuals who are underprivileged, fraught, or marginalized individuals, thereby reinforcing the tenets enshrined within the Constitution. This research seeks to explore the interdependent correlation between the Constitution of Pakistan and Islamic teachings regarding human dignity.

### **1. Significance of research**

Human dignity is one of the fundamental tenets of human rights and in the modern era, the laws and religious teachings must be in harmony with their dedication to protecting this intrinsic value. This study has the potential to pinpoint shared characteristics, bridge divides, and foster a holistic approach to human rights that aligns with both legal frameworks and religious principles. Within the contemporary global dialogue surrounding human rights, there exists an increasingly acknowledged imperative to incorporate religious and cultural viewpoints. The examination of the alignment between the Constitution of Pakistan and Islamic principles concerning the concept of human dignity holds significant academic value.

This analysis can provide valuable perspectives to intellectuals, lawmakers, and legal professionals involved in the wider discourse surrounding human rights, religious diversity, and the harmonization of

religious doctrines within constitutional structures. In an era characterized by dynamic socio-cultural and religious shifts, this research topic assumes an extensive worth as it examines the diverse dimensions of human dignity within the specific context of Pakistan.

## **2. Research Methodology**

The present study employs qualitative and descriptive research methodology. The qualitative methodology facilitates a thorough exploration of the topic at hand, while the descriptive component of the study permits an in-depth evaluation of the prevailing constitutional provisions and Islamic doctrines. The proposed study entails a comprehensive examination and evaluation of pertinent constitutional documents, such as the Constitution of Pakistan, as well as case laws and legal enactments. The primary objective is to ascertain provisions about the concept of human dignity. This study will analyze primary Islamic scriptures, namely the Quran and Hadith, to extract guidelines about the concept of human dignity.

### **Human Dignity**

The notion of human dignity holds significant importance in Islam, as it emphasizes the intrinsic value and sacredness of each individual. Islamic rulings place great emphasis on the freedoms, worth, and honor granted to humans, irrespective of their sexual orientation, ethnicity, economic standing, or upbringing. In the Holy Qur'an, there are various references to the dignity, excellence, and importance of man, in which it is mentioned that he is endowed with a higher level of skills and abilities compared to other creatures, which proves that he is "Ashraf-ul-Makhloqat" (superior in creatures) in terms of existence.

"We have created man in the best composition"<sup>1</sup>,

In another verse of the Holy Qur'an, it is mentioned about honoring humankind, giving them pure sustenance, and riding them across the seas and oceans.

"And We bestowed dignity on the children of Adam and provided them with rides on the land and in the sea, and provided them with a variety of good things and made them much superior to many of those whom We have created."<sup>2</sup>

The Islamic Republic of Pakistan (hereinafter called Pakistan) appeared on the map of the world under the significant agenda of Islam. Islam is a pioneer and great champion of human rights. Islam is a guarantor and custodian of human dignity in history. The first meeting of the assembly of Pakistan convened on the 12<sup>th</sup> of August 1947, in which a special committee was appointed to ensure the execution of Basic Rights in Pakistan. From that date, the elected assemblies are trying to make a proper setup for the enforcement of Fundamental Rights because, in the absence of fundamental

Rights, Constitution cannot be formulated as they are the major part of the objective resolution and Islamic way of life.

### **Status of man under Article 2A (Objectives Resolution)**

Article 2-A is a self-speaking embodiment of the Constitution. Article 2-A is the central pivotal and soul of the Constitution. It constitutes the basic structure of the Constitution. Any change in this article will shake the foundations of the Constitution and the Constitution will go redundant and functionless.

Islamic way of life and dignity of man is an essential feature of the objective resolution and Islam in itself gives a major focus on the dignified way of living. There is no concept of discrimination or mistreatment with any citizen of an Islamic state. The right to dignity is one of the main Fundamental Rights which have been guaranteed under Islam and the Constitution.

The concept of the sovereignty of Allah has been well-enshrined in articles 2-A and 14 of Pakistan's constitution. Article 2-A was enunciated as "Objective Resolution" as a foreword of the Constitution but, later on, it was made a functional fragment of Pakistan's constitution under Article 2-A. It enumerates the "basic structure" foundation-stone of the constitution. It upholds that no one can be treated against the law and provisions of the Constitution. It provides guiding principles, plans, and procedures for the Islamization of the national laws of Pakistan. It upholds the concept of human dignity, equality, fair play, and self-respect for all citizens of the country.

Para 1 of Article 2-A (commonly known as 'Objective Resolution') reads as:

"Whereas sovereignty over the entire universe belongs to Almighty Allah alone, and the authority to be exercised by the people of Pakistan within the limits prescribed by Him is a sacred trust."<sup>3</sup>

Para 1 of Objective Resolution (Nowadays called Article 2-A) belongs to the sovereignty of Allah which means that the final authority will be of Allah Almighty. Quran refers to the same in the verse that

Sovereignty belongs to none but Allah<sup>4</sup>.

Article 2 (A) says that man will use the authority as per orders of Almighty Allah. So is the ruling of the Quran, that makes man the vicegerent of Allah.

"And recall what time thine Lord said unto the angels: verily I am going to place a vicegerent On the earth."<sup>5</sup>

So, man has to use the powers according to the will of his Lord. Article 2(A) signifies Pakistan's constitution in Islam in its sense. This notion of vicegerent glorifies man's dignity that he is the slave of none but only Allah.

Ideologies of democracy, liberty, fairness, acceptance, and societal impartiality which upsurges the dignity of man are considered a vital part of the objective resolution. Para 4 of Article 2-A (Objective Resolution) of the Constitution reads as:

"Wherein the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam, shall be fully observed;"<sup>6</sup>

Para 4 of Article 2-A of the constitution comes in the further explanation of Para 1. Para 4 explains that Islam has given a full code of conduct in which special emphasis has been given to the principles of democracy, freedom, equality, tolerance, and social justice. For Islamic democracy, Quran promotes consultation in Surah Shura,

"whose affairs are (settled) with mutual consultation"<sup>7</sup>

Quran has many injunctions for equality and social justice<sup>8</sup> that show that it's necessary to protect human dignity. The right to dignity has been considered a major part of all aforementioned principles. Para 8 of Article 2-A (Objective Resolution) reads as:

"Wherein shall be guaranteed Fundamental Rights, including equality of status, of opportunity and before the law, social, economic, and political justice, and freedom of thoughts, expression, belief, faith, worship, and association, subject to laws and public morality;"<sup>9</sup>

Para 8 of article 2-A comes in the detailed explanation of previous paragraphs where certain guarantees have been provided to citizens of the state regarding Fundamental Rights, Social, and political justice. It also assures equal opportunities and equality before the law. Islamic rulings conform with these principles, rather these principles are rooted in Quran. Quran advocates freedom and tolerance declaring, "There is no compulsion in religion."<sup>10</sup>

This verse is the biggest manifestation of human freedom. All these factors collectively promise the dignity of every citizen of an Islamic state.

### **Fundamental Rights for Upholding Human Dignity- Harmonious Integration of Islamic Principles**

The dignity of man is the basic ingredient of Part II, Chapter I (Fundamental Rights) of the Constitution. It is also guaranteed under Islamic provisions. Any law in violation of Article 2-A (Objective Resolution) and Part II Chapter I of the Constitution shall be void. As it is relied upon the order passed by the Sindh High Court is reproduced as under:

"To determine validity and constitutionality of any legislation and or "Act" of Parliament, it has to be examined on the touchstone of Article 2A and Article 8 of the

Constitution, 1973 and any law as far as its inconsistency with right referred under Chapter-I of the constitution and or any other mandate of the constitution, to the extent of such inconsistency is void.”<sup>11</sup>

This verdict of the Sindh high court explicitly shows that the protection of Human dignity and human rights following objectives and resolutions, is the foremost responsibility of the state and any rule contradictory to that, will be null and void.

The Constitution of Pakistan has given assurance to each citizen of Pakistan regarding social and political justice by incorporating fundamental rights as its salient feature. Article 14 provides safeguards regarding the dignity of man which is reproduced under article 14 of the constitution:

**“Inviolability of dignity of man, etc.:**

The dignity of man and, having subject to law, privacy of home, shall be inviolable.

No Person shall be subjected to torture to extract evidence.”<sup>12</sup>

It is the right of every citizen of Pakistan to live with dignity which is enshrined in Article 14 (1) of the constitution. This article provides that one should not break into the privacy of someone’s home. Islam gives the commandment that

“One should not spy on the privacy of others”<sup>13</sup>

Islam provides a protocol of “Istez’an” (getting permission), which is rooted in the Quran,

“O you who believe, do not enter any houses, other than your own houses unless you seek permission and greet their inmates with Salam. That is good for you, so that you may be heedful.”<sup>14</sup>

This thought and philosophy is the main pillar of the social system of Islam, and to build this pillar on a strong foundation, such comprehensive and double-edged commands have been issued in the Qur'an that covers even the smallest details related to such matters. These include the sanctity of the house, the protection of personal privacy, the observance of modesty, the arrangement of veils, the instructions on lowering the gaze, and the discouraging of mixed gatherings and occasions.

Article 14 (2) of the Constitution elaborates that no piece of evidence can be extracted from an accused person by way of body torture or otherwise. Nobody can be compelled to produce evidence against himself. No concept of self-incrimination speaks and stands for high values of human dignity and prowess. Nobody can be treated against the law and discriminately. Although Quran does not mention any direct prohibition for “cruelty to extract evidence” the Quran's underlying principles of fairness and compassion can be

interpreted as implicitly discouraging the utilization of any methods of cruel punishment. Quran says,

“Do not kill one another. Indeed, Allah has been Very-Merciful to you.”<sup>15</sup>

The main point to be noticed here is that the protection of Article 14 of the Constitution is only available to the natural person and not to the body corporate. According to the law body corporate is a registered business i.e. Public Limited Companies, Private Limited Companies, Limited Liabilities Partnerships etc.

Article 14 specifies the dignity of man and according to the interpretations of courts man means human beings. It does not only mean the male element of human society. It includes all genders of human beings but the body corporates do not fall under the strict definition of a man.

The state has to establish a mechanism for the enforcement of Article 14 and courts are also duty-bound to ensure whether the dignity of man is protected on the ground or not. The Honorable High Court and the Honorable Supreme Court are the constitutional courts and have the powers under articles 199 and 184 of the constitution respectively to give direction to the other organs of the state for the enforcement of Fundamental Rights.

The Honorable Apex courts have also declared the right of privacy of home as a basic ingredient of the dignity of man. So much dignity of man is also linked with the Right to life protected by Article 9 of Pakistan's constitution because the Right to life does not only means the vegetative or animal life of human beings but it also includes all of the amenities of life. A dignified and prosperous life is considered a right to life.

The creator of the universe has given various instructions to live life in the Holly Quran. In “Surah Bani Israel”, the principles of human dignity have been clearly explained that he is the nexus of every creation. <sup>16</sup> Every person born in the world has a right to live a dignified life irrespective of his color, creed, caste, and locality. State agencies are fully responsible for the enforcement of this divine injunction of Islam.

The right to dignity is the supreme fundamental right that is guaranteed under Part II Chapter I of the constitution and injunctions of Islam as it is enunciated in the Double Bench of the High Court.

“Article 14 of the constitution dictates that the dignity of human beings shall be inviolable. Dignity and liberty are bestowed upon every human being by God Almighty. In the Islamic Republic of Pakistan, all organs of the state have been charged to adopt the Islamic way of life under induction of article 2-A in the constitution which adopts Objective Resolution to be the substantive part of the constitution.”<sup>17</sup>

The Constitution ensures Human reverence in Article 14 as it was reported in the judgment dispatched by the Honorable supreme court of Pakistan. The relevant part of the judgment is reproduced as under:

“It is the duty and obligation of the state on the account of the various provisions of the constitution to provide the atmosphere based on honesty by providing equal protection of the law. Every citizen must be treated equally, the dignity of human being life should be maintained, the liberty of life and honor must be guaranteed as envisaged in Articles 9,14, and 25 of the constitution.”<sup>18</sup>

According to the constitution and Injunctions of Islam, no attempt can be made either individually or collectively which can diminish or decrease the dignity of any human being living in the state. The reputation of a person is also considered an essential part of the Right to dignity. Moreover, the right to protection from physical or mental torture is also considered an essential part of the dignity of man because a person who is not mentally and physically free from torture cannot live a dignified life. All of the three primary organs of the state i.e., legislature, judiciary, and executive are equally liable for the enforcement of Article 14.

The right to have a dignified life is provided across the board to all citizens of Pakistan. Minorities and disabled persons have also the same right in every aspect of a dignified life. State institutions have to assure that there is no discrimination towards any minority based on religion, caste, or creed, keeping in view the ruling of the Quran,

“There is no compulsion in religion.”<sup>19</sup>

**Article 4: “Right of individuals to be dealt with following law, etc”**

Article 4 of the constitution is reproduced as under:

“1. To enjoy the protection of the law and to be treated following law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan.

2. In particular-

a. no action detrimental to the life, liberty, body, reputation, or property of any person shall be taken except following law

b. no person shall be prevented from or be hindered in doing that which is not prohibited by law; and

c. no person shall be compelled to do that which the law does not require him to do.”<sup>20</sup>

Article 4 of the constitution describes that all citizens of the state shall be dealt with according to the provisions of law and there will be a complete



safeguard the against any unlawful or illegal act of any individual or of the state agency.

Fundamental Rights which are guaranteed under chapter II of the Constitution are also a vital part of Article 4. Article 4 commands that every individual has his dignity and will be treated as per law.

Article 4 says “No action detrimental to the life, liberty, body, reputation or property of any person shall be taken except following the law”, which means that the life, honor, and property of every man are inviolable. Many hadiths illustrate the same. Holy Prophet (PBUH) said,

“Every Muslim's blood, wealth, honor and reputation are forbidden for other Muslims”<sup>21</sup>

These rights were not void in any condition and even in wars, the dignity of man was presented by Islam. Similarly, at the unusual time of suspension of fundamental rights during emergencies, Article 4 still operates and still provides various protections to the people of Pakistan. By providing the right To be dealt with according to law, the dignity of man is protected by the Constitution.

#### **Article 25: “Equality of Citizens”**

Chapter II of the Constitution also protects against discrimination. Article 25 of the Constitution of the Islamic Republic of Pakistan enunciates:

“All citizens are equal before the law and are entitled to equal protection of the law.

There shall be no discrimination based on sex”<sup>22</sup>

There is human equality as well as gender equality enshrined in the chapter on fundamental rights. This significant article of the constitution reflects the doctrines of human dignity, justice, and right protection which are rooted in the Quran.

O mankind! We have created you from a male and a female, and made you into nations and tribes, that you may know one another. Verily, the most honorable of you with Allah is that (believer) who has At-Taqwa. Verily, Allah is All-Knowing, All-Aware<sup>23</sup>.

Article 4 provides equality to individuals and Holy Prophet (PBUH) announced this universal equality at the time of his Last sermon ( Khutba Hajj-atul-Vida),

“People! Your Lord is one and your Father is also one, be aware! There no preference for an Arab over a non-Arab, nor for a non-Arab over an Arab, Neither black over red, nor red over black, Except by piety, the most honorable of you in the sight of God is the most pious of you”<sup>24</sup>

These Islamic Injunctions provide humans with the dignity of belonging to one father and mother. The dignity of man cannot be ensured

unless equality before the law is ensured. Article 25 of the Constitution provides the Right of equal protection before the law and is closely linked to Article 14 of the Constitution which is purely Shariah compliance.

**Article 9: “Security of person”**

Article 9 of the constitution deals with the security of a person but it is again closely linked to the article 14. Article 9 is reproduced as under:

“No person shall be deprived of life or liberty save following law.”<sup>25</sup>

This article has deep roots in Islam, as Islam provides man with the right to live with dignity. In Islam, the killing of one person is equal to the killing of the entire humanity. This means that the person who takes someone's life unjustly does not only wrong one person but also proves that his heart is void of respect for human life, so he is as if he has killed the entire humanity. Allah says:

“Whoever kills a person not in retaliation for a person killed, nor (as a punishment) for spreading disorder on the earth, is as if he has killed the whole of humankind, and whoever saves the life of a person is as if he has saved the life of the whole of humankind.”<sup>26</sup>

So, the protection and inviolability of a man's life are explicit in Islam. Article 9 mainly deals with the security of a man's life but the Honorable Constitutional Court explains it innovatively that the right to life does not only means the vegetative or animal growth of life but it also includes the amenities of life. They further elaborated that the right to life means the right to have a dignified life.

**Article 10(A): Right to Fair Trial**

The right to have a fair trial is also important to live a dignified life. Article 10-A of the constitution provides safeguards regarding fair trial which is necessary for living a dignified life.<sup>27</sup> Article 10-A is as under

“For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.”<sup>28</sup>

Fear of the state always prevailed in the human mind since long ancient history. Their faces may change but they remained in the human mind. The right to a fair trial is the right which gives peace of mind makes the citizens and make them mentally free. Not providing this right is against justice and Allah Almighty's order in Surah Maidah,

“O you who believe, be steadfast for (obeying the commands of) Allah, (and) witnesses for justice. Malice against a person should not prompt you to avoid doing justice. Do justice. That is nearer to Taqwa. Fear Allah. Surely, Allah is All-Aware of what you do.”<sup>29</sup>

This verse clarifies that everybody should be given just rights and even if there is an enemy, one should not prompt for injustice and cruelty. A person who is not mentally free cannot enjoy a dignified life. This verse makes a man of an Islamic state responsible for providing every citizen with useful rights.

**Article 11: “Slavery, forced labor, etc. Prohibited”**

Protection against forced labor and slavery is also enshrined under the injunctions of Islam and the constitution of Pakistan. Freedom from slavery and forced labor is required for a person to enjoy a dignified life. A person who is a slave or has a life in which he is the victim of forced labor cannot have a dignified life ensured under the injunctions of Islam and the constitution. So, article 11 of the Constitution has a close nexus to Article 14.

Article 11 is as follows:

1. “Slavery is non-existent and forbidden and no law shall permit or facilitate its introduction into Pakistan in any form.
2. All forms of forced labor and traffic of human beings are prohibited.
3. No child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment.
4. Nothing in this Article shall be deemed to affect compulsory service: -
  - a. by any person undergoing punishment for an offense against any law; or
  - b. required by any law for the public purpose provided that no compulsory service shall be cruel or incompatible with human dignity.”<sup>30</sup>

Islam gives many commandments against cruel slavery and forced labor. It orders to provide just and fair labor and forbids making a free person slave. Narrated Abu Huraira: The Prophet said,

"Allah said, 'I will be an opponent to three types of people on the Day of Resurrection:

- 1. One who makes a covenant in My Name, but proves treacherous;
- 2. One who sells a free person and eats his price; and
- 3. One who employs a laborer and takes full work from him but does not pay him for his labor.'"<sup>31</sup>

A letter written by the 2<sup>nd</sup> Caliph is famous in Islamic history where the 2<sup>nd</sup> Caliph Hazrat Umer (R.A) wrote “The people were born free by their mothers. How and since how long you have made them slaves?”<sup>32</sup>

**Article 13: “Protection against double punishment and self-incrimination”**

Article 13 and Article 14 of the constitution stipulate safeguards to the citizens regarding torture as well as being self-incriminated. If we co-relate article 13 and article 14, then it can be dug out easily that the person cannot enjoy dignified life if he is not protected from all kinds of physical and mental

tortures. That is why the constitution of Pakistan and the verdicts of Islam has put so much focus on it. Article 13 says,

“No Person:-

shall be prosecuted or punished for the same offense more than once; or

shall, when accused of an offense, be compelled to be a witness against himself.”<sup>33</sup>

It is the Dignity of man that he should not be punished unjustly or without any evidence or be compelled to be a witness against himself. Islamic code of conduct demands proper evidence or witness.

During the Prophetic era, an event transpired which has come to be known as the "Slander against Aisha" or the "Ifk" incident. Aisha (R.A), the wife of the Prophet (PBUH), was subject to a false accusation about her chastity. The allegation was disseminated within the community, resulting in emotional distress and upheaval. Nevertheless, it is important to note that Allah, in His divine wisdom, revealed verses in the Quran to exonerate Aisha from the unfounded accusations that were leveled against her.<sup>34</sup>

This particular occurrence underscores the significance of adhering to appropriate evidentiary standards and procedural fairness, thereby safeguarding individuals against unfounded allegations and emphasizing the necessity of establishing definitive evidence before imposing penalties.

Islam has given much emphasis on the dignified life of human beings. As it is clear that the Islamic Republic of Pakistan is a country having Islam as a state religion. Articles 2-A,4,9,11, 13,14, 25,26, and 27 collectively provide solid assurances and safeguards to the citizens of Pakistan so that they may enjoy a dignified life in society.

### **Conclusion**

The right to dignity is one of the cardinals' principles of the constitution and has been considered the most valuable fundamental right of every citizen of Pakistan. Every constitutionally developed country has given much emphasis on this right. In particular, Islamic countries have given much more focus on this right as Islam has given much focus on the dignified life of human beings. The Constitution of the Islamic Republic of Pakistan 1973 is the superlative piece of legislation in Pakistan. Social and political justice is the primary part of anyone's life. Provisions of Articles 4, 9, 10-A, 12, 14, 25, 26, and 27 are quite analogous to Islamic rulings. The commonalities between the Constitution of Pakistan and Islamic teachings become evident when examining their shared objectives. Both aim to ensure the preservation of human dignity, regardless of religious or ethnic background. While the Constitution serves as a legal document, Islamic teachings provide a moral compass for individuals and society at large. Together, they create a

comprehensive framework that strives for the well-being and dignity of all citizens.

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