

## Federalism in Pakistan: A Case Study of Center-Bengal Relations (1947-1971)

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### ABSTRACT

*This research seeks to analyze the spirit of Federalism in Pakistan during the early twenty-three years of Pakistan. The purpose of this research is to examine center-provinces relations with particular focus on Centre-Bengal federal interplay. It has been assumed that federation policies towards Bengal pushed them for separatist tendencies. However, the existing data has ignored the stubborn behavior of Bengal leadership Shaikh Mujibur Rahman of Awami League. This research will focus on National Assembly debates, Newspapers, and secondary data to reevaluate and analyze the factors and actors responsible for the conflicting relations between Centre and Bengal and for stretching the conflict to separatism. The present work will also discuss how the lack of consensus, constitution and economic deprivation of Bengal along with unsolved language dilemma provided a breath to the demand of provincial autonomy leading to a separate Bangladesh? The present research will explore the constitutional casual reason behind the East-Pakistan's separation to avoid further loss.*

**Key Words:** Bengal, Federalism, Pakistan, constitution, Assembly Debates, center-provinces relations.

### INTRODUCTION

Federalism is connection between federal government and provincial government, it is a suitable form of government for ethnically and linguistically divergent country. Historically Bengal is the largest province of Sub-Continent with divergent population. In 1905 Bengal was divided by the British Government for administrative purpose because of its huge size but nullified soon. Pakistan's independence movement was started from Dhaka the capital of Bengal in 1906 with the formation of All India Muslim League. Then in Quaid's fourteen points first time Bengal's perspective advocated by demanding appropriate representation in central legislature. Government of India Act provided minimum autonomy to the provinces with federal in form and unitary in practice. During Lahore resolution in 1940 it was clarified in second line Muslims did not accept any constitutional plan framed without their consent. After independence Bengal considered a large province with 53% of population and a huge source of income. The Objective resolution proposed autonomous federation in Pakistan without any proposal about language. This started a language demand by the Bengali people in the form of motion in parliament.

### Federalism, Characteristics And Features Of Federalism

Federalism is connection between federal government and provincial government. In this connection power is distributed between the two, (federal government and provincial government) and within provinces. In a federal constitution power must be divided.<sup>1</sup> Federalism is a suitable form of government for any country which has different communities with different languages, which has ethnically diverse communities and which has territorial based diversity within. In federalist constitution federal government's authority is limited with three columns, legislative, executive and judiciary, while units granted full or limited autonomy.

The present author has opinion that in a federalist constitution power is distributed between central governing authority and administrative units. Central government had power over legislature, executive and fiscal while federating units had autonomy or self-rule. Federal Constitution must be a written document with bicameral legislature (upper house and lower house). Upper house (house of elected people) had population base rule from federating units but the lower house had equal sharing from all units. Federal Constitution had two level of government in defined written form. Judiciary in any federal Constitution must be free from executive.<sup>2</sup> Federalism is suitable form of government having five features in common;

- 1) **Territorial diversity:** federal government had different territory under his command.
- 2) **Linguistic diversity:** under one federal government different territorial parts had diverse languages.
- 3) **Administrative diversity:** has diverse units under central government for administration.
- 4) **Federal and regional diversity:** having two tiers of government in written constitution to perform their duties.
- 5) **Independent judiciary:** Most important feature of federalism is existence of independent judicial system.<sup>3</sup>

#### **Federalism In The Western World, Asia And Sub-Continent**

First it was adopted in USA in 1789.<sup>4</sup> This was a type of Dual federalism to adopt this concept of federation a long campaign was launched by Alexander Hamilton and James Madison by issuing research papers to aware common people about new constitution and its significance. Adopted decentralized federation in which jurisdiction was assigned to 50 states in symmetrically.

“Originally united states comprised of 13 states evolved into 50 states and 2 federations, 3 associated states, 3 local home-rule territories, 3 union corporate territories and over 130 Native domestic dependent nations”.<sup>5</sup>

Switzerland converted into federation in 1848, a small country of some seven million population converted into 26 constituent units called cantons, had linguistic and religious diversity.<sup>6</sup> Canada adopted

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<sup>1</sup> Craig Baxter, *Constitution Making: The Development of Federalism in Pakistan*, University of California Press, California, 2011, 1075.

<sup>2</sup> Ibid, 6.

<sup>3</sup> Adney Kathrine, *Federalism and Ethnic Conflict Regulation in India and Pakistan*, Palgrave Macmillan, New York, 2007, 5-6.

<sup>4</sup> Ronald L. Watts, *Comparing Federal System in the 1990s: Overview of Federation*, Queen's University and the McGill-Queen's University Press, Kingston Ont, 1996, 19.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid, 20.

federation in 1867, to overcome political problems splinted into two new provinces Ontario (English speaking) and Quebec (French speaking). Basically, Canadian constitution of 1867 have strong central powers over provinces also had three legislative columns of government (exclusively federal, exclusively provincial and concurrent.<sup>7</sup> Australian constitution of 1901 was federal comprises six states, had relatively homogeneous society. Australia adopted American style federalism with limited power of central authority while Canada had exclusively strong central power.<sup>8</sup> Austria in 1920, Germany in 1949, India in 1951, Malaysia in 1963, Spain in 1978 and Belgium in 1993 adopted federal constitutions. Now there are 29 countries in the world who adopted federalism as their constitution.<sup>9</sup>

In 1857, after the war of independence Sub-Continent fell into the hands of British government. The British Crown sought to control India by his representative ‘British Governor General of India’ as Indian Viceroy of the Monarch.<sup>10</sup> This started a system of British monarchy in India. To legitimate this monarchy British government introduced a series of Acts from minimal representation to some extent.

“In 1858 an Act of Parliament relieved the BEIC of its role in the governance of India after the uprising of 1857, for which London held the BEIC responsible. Westminster then assumed direct control. As under the Mughals, central control was based on conceding greater executive power to the provinces”<sup>11</sup>.

This Act introduced some federal features in India but with limitation. Divide and rule policy was adopted in India. The Indian council had 15 members (eight appointed by the crown and seven elected by the Court of Directors) without universal franchise introduction. Only high class of citizens was qualified for voting with introduction of communal representation to divide Hindu-Muslim community by making them weaker.<sup>12</sup> Now administrative strategy changed from Mughals under the British government. Mughal’s rule was based on decentralization while British system was centralized. The British strategy to maintain “real power at the center” was an essential part of British concession of provincial autonomy<sup>13</sup>. The second Act introduced by British was Indian Council Act 1861 which increased the legislative members to number five but not permitted to participate in budget, their power was also limited. The Muslims as a minority started to defend their interests through demands on constitutional amendments and were granted reserved seats in parliament for Muslims by Muslim voters.<sup>14</sup>

### **Federalism In Pakistan**

Pakistan adopted federalism in 1956 in its first constitution, nine years after independence because Pakistan is a multi-ethnic and multi religious state having multi ethnic communities such as Punjabi, Sindhi, Baluchi, Pashtun, Saraiki and Bengali. Pakistan was demanded by great leaders (Quaid-i-Azam Muhammad Ali Jinnah, Dr. Allama Muhammad Iqbal, Liaqat Ali Khan and many others) to adopt exclusively federal system with provincial autonomy. Although it took many years to adopt provincial autonomy, Pakistan suffered a long journey from Dual Federalism towards Cooperate Federalism. The

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<sup>7</sup> Ibid, 21.

<sup>8</sup> Ibid, 22.

<sup>9</sup> Ibid, 23-29.

<sup>10</sup> M. Ugarthi Shankalia, Ms. Renuga, *Government of India Acts and its adoption and impacts in the constitution and post-independence*, International Journal of Pure and Applied Mathematics, Volume 120 No. 5 2018, 331-346.

<sup>11</sup> Adeney Kathrine, *Federalism and Ethnic Conflict Regulation in India and Pakistan*, Palgrave Macmillan, New York, 2007, 30.

<sup>12</sup> M. Ugarthi Shankalia, Ms. Renuga, *Government of India Acts and its adoption and impacts in the constitution and post-independence*, International Journal of Pure and Applied Mathematics, Volume 120 No. 5 2018, 331-346.

<sup>13</sup> Ibid.

<sup>14</sup> Mushtaq Muhammad, *Consociationalism and Multi-Ethnic States: Post-1971 Pakistan—A Case Study*, Department of Political Science & International Relations Baha Uddin Zakariya University Multan, Pakistan 48.

federal history of Pakistan is a case of 'two steps forward, one step backwards'.<sup>15</sup> Pakistan has experienced three constitutions since its birth; constitution of 1956, constitution of 1962 and constitution of 1973. For half a century Pakistan experienced a constitution, federal in form but unitary in practice from 1947 to 2010. However the 18<sup>th</sup> Amendment was a landmark by amending 102 clauses and restoring federal nature of the constitution by granting greater power to the provinces and reducing the central authority. The long lasting demand for provincial autonomy and expanding institutional pluralism was adopted in 2010.<sup>16</sup>

## **THE CENTER-BENGAL FEDERAL INTERPLAY DURING FIRST TWENTY-THREE YEARS**

### **Introduction**

14th August 1947 is the day when Pakistan got its independence from British government under “Indian Independence Act 1947”. Under this Act it is provided that Pakistan is a Dominion state, adopted Government of India Act 1935 with few modifications and amendments by the Pakistani parliament. But this was a temporary Act to fulfill basic requirement for a new born country, Pakistan had to draft its own constitution as soon as it possible. The sessions of debates started from 10<sup>th</sup> August 1947 (4 days prior independence declaration) on that day Mr. Jogendra Nath Mandal had described about the future of Pakistan “I hope you will agree with me when I say that the free independent State at Pakistan will bring to one and all of her citizens prosperity, happiness and peace”.<sup>17</sup> Further he said that Pakistan has been created for all the minority committees, minority community will have all their rights with total elimination of hater and distrust among them. Than he told the Assembly the most important task of Constituent Assembly is to form a future constitution of Pakistan. “Although the secondary function of this Assembly will be to enact legislation till a Central Legislative Assembly is constituted under the new Act”<sup>18</sup>. It was decided from very first day that future constitution will be with the consent of all provinces to make it the best constitution in the world. In the words of Mr. Kiran Sankar Roy, “if the Pakistan which 'you have in your mind means a secular democratic State, a State which will make no difference between a citizen and a citizen, which will deal fairly with all irrespective of caste, creed or community, I assure you that you shall have our utmost co-operation”<sup>19</sup> that time Pakistan had eight million scheduled cast in it. It was a deliberate effort of these depressed classes along with Muslims to struggle for Pakistan. Quaid-e-Azam advocated for provincial autonomy during freedom movement to British Government, on his 11<sup>th</sup> August speech to National Assembly he said, “I sincerely hope that with your support and your co-operation we shall make this Constituent Assembly an example to' the world.

On 12<sup>th</sup> March 1947 aims and objectives of Pakistan was decided in a resolution presented by Prime Minister Liaqat Ali Khan, this resolution had main principals of constitution of Pakistan, later it served as integral part of three constitutions of Pakistan. In its seven clause it is clearly mentioned that there will be granted autonomy to the federations, while in tenth clause it proposed independence judiciary and in eleven it provided the safeguard and integrity to the federations.

WHEREHY the territories now included in or in accession with Pakistan and such other territories as may hereafter be included in or accede to Pakistan shall form a Federation wherein the unit will be autonomous with such Boundaries and limitations on their rowers and authority as may be prescribed;

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<sup>15</sup> Waseem Muhammad, *Federalism in Pakistan: Problems and Prospects*, Features on Federalism, Center for Civic Education Pakistan, Islamabad, December 2013, 5.

<sup>16</sup> Ibid 5-7.

<sup>17</sup> (National Assembly Debates, 1947 ) 10<sup>th</sup> August Debate.p.1

<sup>18</sup> (National Assembly Debates, 1947 ) 10<sup>th</sup> August Debate p.3

<sup>19</sup> (National Assembly Debates, 1947 ) 11<sup>th</sup> August debate p.13

WHEREIN the independence of the judiciary shall be fully secured;

WHEREIN the integrity of the territories of the Federation, its independence and all its rights including its sovereign rights on land, sea and air shall be safeguarded;<sup>20</sup>

### **Language Dilemma Of Pakistan Before And After Bpc Reports**

Mr. Dharendra Nath Dutta from East Bengal presented a motion, "That in sub-rule (1) or rule 29, after the word 'English' in line 2, the words 'or Bengali', be inserted". Because on 11<sup>th</sup> August debate Quaid had declared English as state language now this was a motion by Bengali people that "Bengali" should be state language. Pakistan had a six million population from which four million and forty lakh belong to Bengal, Bengali is a Provincial language but having a language of a large population it should be granted as "Lingua Franca" of Pakistan. In India total population is thirty crore but Bengali speaking are in minority with two and half crore only, so sister country had majority population language that is Urdu, Hindi and English. In Pakistan Bengali are in majority so there will be Bengali as state language.<sup>21</sup> Pakistan there are 54% Bengali speaker, 28% Punjabi speaker, Pashtun speaker are 6%, Sindhi speaking people are 5%, Urdu speaking are 3% only while Baluchi speaking are 1% to the total population of Pakistan at the emergence of Pakistan.<sup>22</sup> Mr. Prem Hari Barma from East Bengal sided with Mr. Datta and Bhupendra Kumar Datta said, that Bengali is the richest language in Sub-Continent, but Mr. Liaqat Ali Khan opposed this motion as there is a common language Urdu to communicate with all parts of Pakistan. "Urdu should be the state language", Mr. Ghazanfar Ali Khan (Minister for Refugees, "Relief & Rehabilitation) also opposed the motion by saying "one language for one state that is Urdu" Khawaja Nazim-Ud-Din from east Bengal sided with Urdu but favored Bengali as "medium of instruction and educational institutions and administration of province". It was a tussle between the two parts of the country East Pakistan was supporting Bengali while West Pakistan was supporting Urdu, on contrary opinions this motion was negative "That in sub rule (1) of rule 29, after the word 'English' in line 2 the word 'Bengali, be inserted".<sup>23</sup>

On 13<sup>th</sup> July 1955 again in Constituent Assembly there raised a point by Shaikh Mujeeb-Ur-Rehman from East Bengal the reminder of language problem faced by Bengali people even in Constituent Assembly while delivering address in Urdu or English. Bengali people are not comfort with these two languages as they are in Bengali. He reminded the House when second Prime Minister of Pakistan Khawaja Nazim-Ud-Din announced Urdu as state language of Pakistan in 1952 than Bengali people want both (Urdu and Bengali) as languages of the country, on 21 February 1952 East Bengal demanded in Assembly for Bengali also be a state language along with Urdu, but innocent people were fired for their demand and those who opposed the firing in Assembly were arrested because of their support. The people who had thrown away from their post had Divine right to govern and they must be backed to their posts as it concern the language than Bengali also be a state language along with Urdu. House may allow members of East Bengal to present in their own language as it appears in U.N.O's sessions where delegations expresses their views in their respective language, even in Canadian parliament English and French languages are used, Swiss Parliament had three languages. Bengali members are not frequent with English language so they may have privilege to speak in House in their mother tongue, Mr. A. H. Deldar Ahmad also supported him in this issue.<sup>24</sup>

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<sup>20</sup> (National Assembly Debates, 1947 ), "aims and objects of the constitution" 7th to 12 March

<sup>21</sup> (National Assembly Debates, 1947 ) 11<sup>th</sup> August Debate p.

<sup>22</sup> (Kathrine, 2007) "*Federalism In Asia*", Edward Elgar Publishing Limited, p. 104

<sup>23</sup> (National Assembly Debates, 1947 ) 11<sup>th</sup> August Debate p.

<sup>24</sup> (Debates, 1954) 13<sup>th</sup> July 1955 Debate p. 127-131

Again on 8<sup>TH</sup> August 1955 there was a point that Bengali should be the language of the house along with Urdu and English and every report must be printed in Bengali language for Bengali members because they are in majority in the House. There was also a suggestion to amend the rule 29 which had restricts the members to speak only in two languages. Mr. Zahir-Ud-Din made a recommendation to the committee a provision to record the debates of Bengali members in Bengali language.<sup>25</sup>

In a draft constitution Bengali had been given the status of national language along with Urdu, Maulana Abdur Rashid Tarkabagish objected to the proposal of languages because it was also stated that English will remain official language for next twenty years. For last eight years Urdu and English had been imposed upon East Pakistan not only in schools but everywhere, even in broadcasting there is no place for Bengali. All efforts had been made to promote Urdu as state language and ignore Bengali for eight years, though Bengali is the language of majority population. According to democratic method majority population's language should be a state language. Shaikh Mujeeb-Ur-Rehman raised a question on what should be an Islamic language. Urdu is not an Islamic language, every Islamic country had its own language, and it may be Urdu, Arabic, Persian and Bengali. He referred Article 31 of the proposed constitution which urges to promote and growth of national language, as West Pakistan is not against the adoption of Bengali language as soon as it possible Bengali should be adopted along with Urdu. Bengali people had been deprived from defense services because all the services and training is in Urdu or English, this discrimination should be ended by adopting Bengali language.<sup>26</sup>

### **Central Policies And Bengal Tendencies Towards Constitution Making**

When the first report of BPC was published it faced criticism on large scale, some called it undemocratic, some had a view of dictatorship in Pakistan, un-Islamic and reactionary report, a report turning majority of East Bengal into a minority, turning Bengal into a colony of Pakistan and abolished provincial autonomy to create unitary system in Pakistan. Declaration of Urdu as a national language was not acceptable by Bengali people they want Bengali as Lingua Franca of Pakistan.<sup>27</sup> A Central Committee for Democratic Federation (CCDF) was formed in East Bengal to criticize BPC and Liaqat Ali Khan, "will the Liaqat Ali Khan answer the following question" a leaflet was published clearly indicating the autonomy for East Pakistan. There were protests all over the Bengal on the publication of BPC's first report.<sup>28</sup>

After the publication of second interim report it was circulated for public opinion, in East Bengal Dacca was not happy with the upper house settings. Hindu also rejected for having separate electorate for a minority community of East Bengal with reserve seats. East Bengal had demand of provincial autonomy on the basis of Lahore resolution so rejected BPC's report. East Pakistan demanded a confederation of Pakistan comprising on two wings, revenue collection will be units responsibility with fix amount for center to run only three subjects 1) defense, 2) foreign affairs and 3) currency. East Pakistan also demanded unicameral system on population basis with the collaboration of Awami Muslim League (AML), Khilafat-e-Rabbani Party and United Islamic Front to left only three subjects for center.<sup>29</sup>

While presenting Bogra formula in the assembly Muhammad Ali Bogra claimed;

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<sup>25</sup> (Debates N. A., 1955-1956) *8<sup>th</sup> August Debate 1955* p.193-94

<sup>26</sup> (Debates N. A., 1955-1956) *21<sup>st</sup> January 1956 Debate* p.1884 -1909

<sup>27</sup> (Debates, 1950-1952)

<sup>28</sup> Kokab Rizwan Ullah, "Constitution Making in Pakistan and East Bengal's Demand for Provincial Autonomy" Pakistan vision, vol.12 p.167-168

<sup>29</sup> Kokab Rizwan Ullah, "Constitution Making in Pakistan and East Bengal's Demand for Provincial Autonomy" Pakistan vision, vol.12 p.169-170

“The formula has been unanimously accepted by my colleagues, by the Chief Ministers of East Bengal, the Punjab, Sind, the N.-W.F.P. and Bahawalpur and by all members of the Muslim League Parliamentary Party.”<sup>30</sup>

This formula was also rejected by that time all political parties except PML, a public meeting was held under leadership of Fazal-UI-Haqq in collaboration of Jinnah AML, Krishan Sramic Party (KSP), Khilafat-e-Rabbani Party, the GD and EPCP in Dacca to pass a resolution for provincial autonomy.<sup>31</sup> Mr. A.K Brohi criticized that what will be the judicial system of Pakistan? Mian Iftikhar-Ud-Din raised a question in Assembly that the formula had not sectarian or provincial view point. Mr. Bhupendra Kumar Datta and Mr. P. D. Bhandhara both criticized for separate electorate for minority community, Mr. P. D. Bhandhara also rejected the provision for Head of The State should be a Muslim and there should be a minority seat in Western Zone reserved in Upper House in Punjab legislature. Shiri Dhirendra Nath Datta called it a fraud for being in *parda* not having suggestion from other members, not defined finance allocation between center and provinces and mixed subjects between central list and provincial list.<sup>32</sup> Shiri Dhirendra Nath Datta demanded the custody of opium to be transferred from List one to List three, which was rejected for national interest. He demanded for fisheries to be in provincial custody because East Bengal’s main source of income is fisheries and all kind of taxes collection should be provincial subject not of Federal. Mr. Abdul Hameed presented the detail of powers over concurrent list that it will not be only federal authority but president can transfer powers to provinces in certain cases, when legislature is not in session.<sup>33</sup> East Bengal had claimed more autonomy to provinces but faced disappointment on all three reports, Prof. Raj Kumar Chakravarty stated Quaid’s speech on 10<sup>th</sup> October 1945 at Baluchistan when he said;

"The theory of Pakistan guarantees that Federated Units would have all the autonomy that we find in the constituents of the U.S.A., Canada, and Australia. But certain vital powers will remain vested in the Central Government, such as the monetary system, national defense and other federal responsibilities." <sup>34</sup>

The BPC’s reports are in opposite to Quaid’s vision of Pakistan so not acceptable to all Pakistanis. To him acceptance of Objective Resolution and BPC’s reports are reducing non-Muslims to drawers of water and hewers of wood and Maulanas as hoax. Shiri Dhirendra Nath Datta reminded the Assembly the demand of people from Bengal during election was the autonomy of provinces and all residuary powers will rest for provinces with only three subjects for center ( defense, foreign affairs and currency), and fair elections are not possible under Governor rule.<sup>35</sup>

### **Bengal’s Opinion Upon Draft Constitution Of 1956 And Its Implementation:**

When the constitution was framed by the committee, it was circulated for public opinion. Shaikh Mujeeb rise the point that East Bengal’s name never to be changed, Bengal did not have any issue with One-Unit scheme but its people want Bengali too as a state language, they want provincial autonomy, they demanded for joint electorate. He said that people of West Pakistan are also against One-Unit, if referendum will be held in West Pakistan.<sup>36</sup> Mr. Abdur Rehman Khan criticized the excessive use of

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<sup>30</sup> Ibid p.14

<sup>31</sup> Kokab Rizwan Ullah, “*Constitution Making in Pakistan and East Bengal’s Demand for Provincial Autonomy*” Pakistan vision, vol.12 p.170

<sup>32</sup> (Debates, 1950-1952), “*BPC’s Third Interim Report, “Bogra Formula”* 7th October 1953, p.39-54

<sup>33</sup> (Debates N. A., 1954) *16<sup>th</sup> September Debate* p.384-409

<sup>34</sup> (Debates N. A., 1954) *21<sup>st</sup> September Debate* p.504-509

<sup>35</sup> Ibid

<sup>36</sup> (Debates N. A., 1955-1956) *25<sup>th</sup> August Debate* P,296-297

wealth generated by provinces especially from West Pakistan's Jute's production, this income should be spent on departments for their development.<sup>37</sup> Shaikh Mujeeb want the income generated by East Bengal's railway must be spent on railway's management and maintains.<sup>38</sup> On 29<sup>th</sup> November Governor General assented the 8 Bills including West Pakistan Establishment Bill. The Awami League party in elections had raised 21 points one of them was the abolition of *Zamindari* system but this system cannot be abolished without compensation to *zamindars* if you visit Sindh and Punjab Frontier you will find the lands of one man that is Talpur, Daultana or Iftikhar-UD-Din the day long journey, this property should be belong to those people who work upon it, because Islam believes proper distribution of wealth.<sup>39</sup> MR. Abdul Mansur Ahmad also dislike the constitution arrangement and raised a point against Mr. Chandigarh's statement that this constitution is the only solution to Pakistani problems, but in fact this Bill counters Lahore Resolution and 21 point program of Awami League, except Mr. Muhammad Ali pledged this to the people of East Pakistan. They had pledged if they came in power will produce a constitution with only three subjects to the center while this Bill gave 51 subjects to the center, again this Bill is against Islam, nor Federal, nor Republic. Pakistan is a one state of two countries, both are differ from each other in language, custom, tradition, climate, geography and calendar but had two common factors, common religion and common struggled for independence. The constitution framing for the country will have two aspects, Federal form of Government or unitary form of the government. A federal type of government which have a different structure without one language and parity between wings with equal distribution of wealth from unitary type which had one franchise, one language, one calendar, one standard time and one capital. He said the Basic Principle Committee report and the Constituent Bill are same.<sup>40</sup>

The constitution of 1956 was promulgated on 23<sup>rd</sup> March 1956 and on 25<sup>th</sup> March its first session was held. Before the first general elections were held under the first constitution general Sikandar Mirza with the collaboration of Commander-in-Chief Ayub Khan abrogated the constitution on 7<sup>th</sup> October 1958.

### **A CONSTITUTION WITHOUT ANY PROVINCIAL CONSENT**

Ayub Khan ruled till 1969 but deposed Sikander Mirza. And Martial Law was imposed in the country for two years, there had been no constitution for these two years and country was running under martial Law imposition.<sup>41</sup> A commission was appointed by President Ayub Khan under the leadership of Justice Shahab-Ud-Din on 17<sup>th</sup> February 1960 for the recommendation of parliamentary form of government. But all of its recommendations were denied in the constitution.<sup>42</sup> In the new Constitution under the guidance of General Ayub, with all powers at the strong center, One-Unit for parity was also contained. Provinces were deprived from their right to discuss or any involvement in government affairs. Provincial list was totally excluded from constitution, and a centralized presidential form of constitution was promulgated in the country.<sup>43</sup> The new constitution was presented on 1<sup>st</sup> March 1962 but promulgated officially on 7<sup>th</sup> July 1962, after promulgation of second constitution in first session of Constituent Assembly President Ayub Khan said, that the new constitution will represent his political philosophy and its application for 94 million people of Pakistan. it will make Pakistan a strong country with national outlook, will carry out social welfare of its people and moral happiness.

<sup>37</sup> (Debates N. A., 1955-1956) *25 August Debate* p. 298-308

<sup>38</sup> (Debates N. A., 1955-1956) *21<sup>st</sup> January Debate* p.1914

<sup>39</sup> *Ibid* p.1906

<sup>40</sup> (Debates N. A., 1955-1956) *16<sup>th</sup> January 1956 Debate* p.1814-1832

<sup>41</sup> (Khan Uzma, 2016), "*History of Federalism in Pakistan (1947-2010); Centralization towards Provincial Autonomy*" the discourse, Volume 02 Number 02, July - December, 2016.

<sup>42</sup> Akbar Mansoor Kundi, "*Federalism in Pakistan: Problems and Prospects*" *Asian and African studies*, 11, 2002, p.40

<sup>43</sup> *Ibid* also see (Khan Uzma, 2016)

“It is based on my long association with the administration of all levels, detailed knowledge of the country and the people, wide study. Deep and prolonged thought and a burning desire to help the people in building the country into a powerful and progressive State”.<sup>44</sup>

Bengal had been deprived from almost all his demands of federal constitution first in 1956’s constitution but in 1962 constitution the situation became worse with in seven years after that. The Bengali’s dis-sentiments created an atmosphere for once again abrogation of constitution and led another Military Coup in Pakistan.

### **Abrogation Of 1962’s Constitution And General Elections of 1970s**

After the constitution of 1962 the Ayoub’s era marked in history as discrimination towards Bengali culture, politics and economics. This discrimination compelled Shaikh Mujeeb to present his six points as a solution to the poor people<sup>45</sup>. In West Pakistan a newly created Pakistan’s People Party (PPP) raised his slogan “*Roti Keppra or makan*”. The discrimination of poor in both wings defamed General Ayoub in politics and removed him from his office in March 1969 followed by another Military General. General Yahya Khan after assuming his office abrogated the Constitution of 1962 on 26<sup>th</sup> March 1969 after seven years of its formation.<sup>46</sup> General Yahya Khan abolished One-Unit plan in 1970 and announced the revival of provinces, reconstituted three provinces<sup>47</sup> and Baluchistan was given the provincial status first time. He sensed the public mood and announced for general elections in Pakistan, these were the first national elections in the Pakistan’s history. The upcoming victory of Awami League (AL) in these elections was proved a succession of Bangla Dash.<sup>48</sup> In the General Elections campaign, Awami League played with provincial autonomy, PPP played with poor people’s emotion by raising a slogan “*Roti Keppra or makan*” to all, and third major party Jamaat-E-Islami (JI) stood with Islamic panacea to Pakistan.<sup>49</sup> Awami League won the elections of December 1970 by securing 160 seats in East Pakistan<sup>50</sup>, having a majority party it was a federal right of Awami League to form a Government but they were not permitted. On the other hand PPP won majority seats in West Wing, but according to the words of Peter Hazelhurst in *The Times*, London, on 9<sup>th</sup> December: both leaders are opposed to each other diametrically on all issues, carved the way into two separate political kingdom.<sup>51</sup> In the words of Mir Ghous Khan Bazanju, after the victory of AL in general elections the West Pakistan stocked the power and created many hurdles in the way of East Pakistan’s power. They demanded for Assembly’s summon but at first they were refused, but with their continuous insist the session was started it was postponed by Military Dictator on the demand of Mr. Bhutto to increase the time limit otherwise he will left the session.<sup>52</sup>

### **The Dialogues Deadlock, Operation Search Light And Separation Of East Bengal**

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<sup>44</sup> (Debates N. A., Constitution Making, 1962) 8<sup>th</sup> July Debate p.3

<sup>45</sup> ( federal government, only three subjects to the centre, two separate currencies with separate banks, power of taxation to the provinces, two separate accounts of foreign exchange and separate military for both wings)

<sup>46</sup> Dr. Hussain Ejaz, “Civil-Military Relations in a Post-Colonial State” Published by Research Gate, PCD Journals vol. IV No 1, 2012, p. 134-136 also see (Khan, Khan, Shahzad and Khan 2016)

<sup>47</sup> ( Punjab, Sindh and north West Frontier Province)

<sup>48</sup> (Kathrine, 2007), “Federalism in Asia” Edward Elgar Publishing Limited, p. 106-109

<sup>49</sup> Dr. Hussain Ejaz, “Civil-Military Relations in a Post-Colonial State” Published by Research Gate, PCD Journals vol. IV No 1, 2012, p. 136

<sup>50</sup> Akbar Mansoor Kundi, “Federalism in Pakistan: Problems and Prospects” Asian and African studies, 11, 2002, p. 41

<sup>51</sup> Rafi Raza, Zulfiqar Ali Bhutto and Pakistan 1967-1977. Reproduced in pdf format by Sani H. Panhwar member Sindh Council, PPP, 1997, 38.

<sup>52</sup> (Debates, Constitution Making 1972-1973) 11<sup>th</sup> July Debate p. 112

When Awami League was not allowed to form a government in dominated West Pakistan politics it started its own government in East Bengal. First they were prohibited to do so by a Martial law and curfew but they violated, in fact they were not prepared to negotiate. The Bengalis established their own government under the authority of Shaikh Mujeeb, all offices and all other matters were carried by his order in Bengal. Situation became worse in the country, when Yahya Khan announced in a meeting with political members: “if they don’t behave Army knows how to shoot through”.<sup>53</sup> When East Pakistan arranged a Assembly Session in Dacca on 3<sup>rd</sup> March all the member of Assembly from West Pakistan were prohibited to attend the session with a threat of broken legs and ribs and will not be allowed to return back, the words of Mr. Abdul Khaliq Khan.<sup>54</sup> At first Zulfiqar Ali Bhutto was not willing to sit in opposition benches as he claimed to have a keys of Punjab in one Pocket and Sindh in other one, blocked the situation without any positive development.<sup>55</sup> Shaikh Mujeeb’s six points would lead the country towards the dismemberment either accepted or rejected in the words of ZA Bhutto, he also criticized General Yahyah’s lack of knowledge over six points, Shaikh Mujeeb declared his six points a Magna Carta.<sup>56</sup> Sensing the worse situation and demand of Gen. Yahyah for the formulation of constitution first than transfer of power, the Awami League finalized the draft constitution on the basis of six points, the Council Muslim League sided with Mujeeb, and this isolated ZAB.<sup>57</sup> The Six point program was based on 23<sup>rd</sup> March 1940’s Lahore Resolution, a transformation of extremely loose federation from a quasi-unitary system, in this situation ZAB organized some meetings with Mujeeb neither successful nor unsuccessful, decided immediate withdrawal of Martial law and transfer of power to the elected members respectively in five provinces, two sessions respectively in Dhaka and Islamabad will let the two wings to live together. This decision created a compromised formula, an autonomy for East Pakistan on the basis of six points but the West Wing will continue to govern under 1962 Constitution.<sup>58</sup> Nawab Akbar Bugti agreed with Mujeeb while Daultana suggested to debate the Six points in National Assembly, on the other side ZAB announced he would not attend the session as Awami League framed the constitution on the basis of ‘take it or leave it’ he was in the favor of transfer of power not transfer of Pakistan.<sup>59</sup> There were three forces in the country, the Awami League, the PPP and the Armed forces, the 16 to 25 March was ten discussion days between the three powers first resulted in discussion on constitutional framework, Mujeeb told the press “let us hope for the best and prepare for the worst”<sup>60</sup> he insisted ZAB to stand with Awami League to become the Prime Minister of Pakistan and left Bangladesh for him, when the both leaders agreed Yahya Khan announced to postpone the Assembly meeting of 25<sup>th</sup> March, ended with military action.<sup>61</sup> On 25<sup>th</sup> March 1971 General Yahya Khan led the operation “Search Light” law and order restoration, initiated by West Pakistan on the demand of East Pakistan to transfer the power and provincial autonomy. East Pakistan became a battle field with military troops from West Pakistan, a military led operation converted East Pakistan into “Bangla Dash” an independent country thus born, forced India to intervene the war of East and West Pakistan. This Operation resulted with more than 300000 death casualties and 94000 detention of Pakistani soldiers in India (Delhi).<sup>62</sup> In his Address to the National assembly President

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<sup>53</sup> Ibid p. 116-118

<sup>54</sup> Ibid p. 230

<sup>55</sup> Rafi Raza, Zulfiqar Ali Bhutto and Pakistan 1967-1977. Reproduced in pdf format by Sani H. Panhwar member Sindh Council, PPP, 1997, 40.

<sup>56</sup> Ibid, 41

<sup>57</sup> Ibid, 41-43.

<sup>58</sup> Ibid, 46-63.

<sup>59</sup> Ibid, 49.

<sup>60</sup> Ibid, 61, cited from *The Pakistan Times*, Lahore, 20 March 1971.

<sup>61</sup> Ibid, 51-64.

<sup>62</sup> (Khan, Khan, Shahzad and Khan 2016) “*History of Federalism in Pakistan (1947 to 2010): From Centralization towards Provincial Autonomy*” the Discourse, Vol 2, Number 2, July-December, p. 67 also see (Ejaz 2012) (Kathrine 2007) (Kundi 2002)

of Pakistan Mr. Zulfiqar Ali Bhutto blamed Mr. Mujeeb for the separation of East Pakistan, as Mr. Mujeeb was not in the favor of One Pakistan. He was a secessionist who struggled for 25 years to separate Bengal from Pakistan, from West Pakistan there were Khans (Yahya Khan and Ayoub Khan) who was responsible for the separation of East Pakistan. Because General Yahya never allowed him to talk with Mujeeb on his six points and used a “power of weapon language instead of weapon of language”.<sup>63</sup>

## CONCLUSION

When the world was launching a campaign to adopt federalism as a solution of political problems, Sub-Continent was suffering to fight for independence struggle. Sub-Continent had diversity in many ways, it is a combination of different religion, land of different languages and territorially divided areas. From the creation of Pakistan to the presentation of Bogra Formula six years passed but no any definite conclusion had been reached. The First interim report suggested Bi-cameral legislature, federal form of government and Urdu as a national language. It faced many criticisms from all over the Pakistan but more from East Pakistan, with the opinion of converting a majority community into a minority community, making East Pakistan a colony of West Pakistan and never considering Bengali as a lingua franca of Pakistan. Bogra formula presented a concept of two Zones (east zone and west zone) with two houses, House of Units with equal representation and House of Units with the representation on population basis. Pakistan adopted loose federal formula in the shape of first Constitution of Pakistan in 1956. This was not enough for the purpose of Pakistan, nor granted provincial autonomy as it was suggested in Lahore Resolution for the new Islamic democratic state by the founder of Pakistan. The 1956 constitution again created many conflicts between the Center and Provinces over the administrative authority and subject's distribution. Within two years the country was suffering with many problems so in 1958 the new constitution was abrogated by the first military coup. From 1958 to 1962 there was no constitution in the Pakistan, a commission was appointed for recommendations of the new constitution. This Constitution damaged all the concepts of Federalism in Pakistan. It totally relies upon central subjects without defining Provincial and Concurrent list. Central authority prevails over the Provincial in both constitutions of Pakistan. Actually during these twenty-three years there was a constant demand from Bengal to the Central authorities for the adoption of federal constitution with three subjects for the center only, on the other hand shaikh mujeeb's six point was neglected by both Zulfiqar Ali Bhutto and Gen. Yahyah Khan. All these circumstances paved the way for separation of East Pakistan into Bnengla Desh.

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<sup>63</sup> (Debates, Simla Accord 1972) 14<sup>th</sup> July Debate, p.695-697

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