



**RESEARCH PAPER**

**Genesis of Federal States Under the Colonial System: A Case Study of Pakistan**

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**ABSTRACT**

This study aims to explore the facts pertaining to the genesis of federal States in general and in particular the Pakistan as a federation. This research also discovers the reasons, for the adaptation of federal system in Pakistan. There are various independent States adopted the federal system, and emerged as a model federation on the World's map. There are 29 Federal States and each State has an exclusive history behind the adaptation of federal system, Particularly the States which were the part of colonial system under the British rule such as U.S, Pakistan Malaysia and India etc. As for as the case study of Pakistan is concerned, the role of a few of political parties in general and in particular the historical role of All India Muslim League and its leadership, the specific role of Quaid-e Azam Muhammad Ali Jinnah the founder of Pakistan is a vital and is explored by using the secondary source of data collection, descriptive and historical methods of research study. Pakistan was made a federal State in the result of a series of constitutional reforms since the war of independence 1857 to 1947 in the context of Pakistan movement.

**KEYWORDS** British, Colonial, Federation, Genesis, Pakistan

**Introduction**

Federation is an agreement among the federating units to form the Central government. There is a division of powers between federal and federating units of federal States defined in the constitution which is the supreme law of land in every independent State. In the history of the federalism there are three ways to form a federation State.

- Unitary State amends constitution and restructures the State system. The principle of division of power was implemented between the Center and governments of the units, recently example of Nepal became federal State through the restructuring the State system in 2015.
- The Independent States withdrawn their sovereignty and signed an agreement and formed federation best example is UAE.
- The third way for the formation of federation that the colonial nations signed an agreement during their freedom movement and got independent and create a new federal State. USA and Pakistan also passed through this process and formed a federal State. Both States were the colony of British Empire.

**Literature Review**

A book with the titled 'Federal Government' is written by Kenneth .Clinton Wheare an Australian Political Scientist. According to Wheare (1963). "An association of states, which has been formed for certain common purposes, but in which the member states retain a large measures of their original independence" . K C where described the fundamental principles of the federation as "Federal principle as the method of dividing powers so that

the general and regional governments are each, with in a sphere, co-ordinate and independent” R.L Watts (1966) defined federal concept in his book ‘New Federation Experiments in commonwealth as under “The principle of organization whereby a compromise is achieved between concurrent demands for union and for territorial diversity within society the establishment of a single political system within which general and regional governments are assigned co-ordinate authority such that neither level of government is legally or politically sub-ordinate to the other”.A scholar from Pakistan Mehrunnisa Ali narrated as under “Federalism is thus an outcome of the desire of these divergent groups to be united under one political unit while retaining at the same time their distinct identity” (Ali 1996,). Jami Chandio (2020,) mentioned about the federal States in his book Cultural Federalism “Federalism has three sub-forms i.e. political, fiscal and cultural” above point of view of Jami also supporting the idea of diversity in a federal States. Federal State is the name of “Representation of states in central government” ( Abbasi, 2010) .Abbasi further define “Authority and legitimacy lie at the helm of understanding the concept of federalism” ( Abbasi 2010). A Book published in 2010 written by Harihar Bhattacharia on the federalism in Asia. In his book he discussed on the structure of federalism of Pakistan and Malaysia. In chapter 6 the Centre states relations are the main point of discuss. A famous lawyer and writer on history and politics Hamid Khan wrote a detail book in the political and constitutional history of Pakistan which was published in 2001, In his book he elaborated the detail history about the formation and history of the formation of the constitutions of Pakistan. Mansoor Akber kundi and Arbab Muhammad Jahangir. Wrote in their article ‘Federalism in Pakistan: Issue and Adjustment’ in Asian Affairs. “The Sindhi’s have persistently been confronting cultural hegemony since the One Unit period”. “The division of functions between the Centre and provinces remained a hotbed of controversy between the advocates of maximum provincial autonomy, especially those from East Pakistan and smaller provinces, and the proponents of a strong Centre, led by the Punjabi politicians, bureaucrats and military officers.” (Waseem,2007) Muhammad Waseem wrote above lines in his book ‘Politics and the State in Pakistan which was published by National Institute of Historical and Cultural Research in 2007. Political and constitutional history the book of Hamid khan which was first published in book covered the constitutional and political history of Pakistan. Hamid khan mentioned his book in the chapter about the formation of federation of Pakistan that it was the result of the agreement between the representatives of the Muslim population of India, which was endorsed by the provincial assemblies of Muslim majority provinces in this regard Sindh Assembly passed the resolution in the favor of resolution of 1940. (Waseem, 2015). Gul Shahzad Sarwar wrote a book titled An Introduction to Pakistan Studies ,he explored the history of Pakistan Movement and the formation of federation of Pakistan in a series of constitutional reforms in British India .he wrote “the confrontation between the way of life and the social laws and different cultural standards of the dominant and aggressive Hindu majority eventually led to the demand for a separate Muslim homeland. On one hand the majority had alienated the Muslim minority. On the other hand the representative system of government was soon to be introduced in India. It was not enough to keep away from the Congress it was also important that a separate Muslim organization should be created to safeguard their interests”(Sarwar,2005).

### **Material and Methods**

This study adopted the descriptive and historical methods of research to explore the fact and figures for the making of Pakistan as a sovereign and a Federal State for the Muslims of British India by using a secondary source of data collection through various books, research articles written by experts on federalism and federal system and different websites.

## **Genesis of Federal States in Colonial Period**

World is divided into different kinds of States to run the political system smoothly. Some of them have adopted the federal system in their governance and others have unitary. There are twenty Nine federal States existing on the world map they are USA, Russia, Germany, Canada, India, Iraq, Argentina, Australia, Austria, Belgium, Bosnia and Herzegovina, Brazil, Comoros, Ethiopia, Mexico, federal states of Micronesia, Nepal, Nigeria, Saint Kitts and Nevis, South Sudan, Switzerland, United Arab Emirates, Venezuela, Pakistan, and Malaysia. "Now less than 40 per cent of world population resides in these countries" (Abbasi, 2010).

In the history of modern era of federal system of governments USA is a first federal State. "When the American colonies began their resistance to Britain they drew up the articles of confederation in 1777 of United States of America". (Wheare,1963). According to its provisions the powers were delegated to the congress, which was of one house and represented to the all thirteen states of America, was not fully independent to exercise the power without the will of state's legislatures. This principle was determining the position of General government, as it was working under the regional governments. This principle was lied under the articles of confederations, latter this was replaced by the present constitution of United States, which drawn up in 1787. According to present constitution the both sets of governments, the general and regional will work independently in their own sphere and also co-ordinate with each other not sub-ordinate.

If we go through the American constitution it is clear in this document that the general government and regional governments are divided on the base of authority no any government subordinate to other but both government co-operate with each other. Later in 1913 the election process of senators was changed by the seventeenth amendment. The seventeenth amendment restates the first paragraph of article 1,section,3 of the constitution provides for the election of senators by replacing the phrase chosen by the legislature thereof 'with' elected by the people there of. "In addition, it allows the governor or executive authority of each state, if authorized by that event of a vacancy, until a general election occurs". <https://.reaganlibrary.gov/constitutional-amendments-amendment-17-direct-election-senators>.

After the seventeenth amendment of 1913 in the original document of 1787 the most of the experts consider this the modern constitution recognizes a co-ordinate system in America".(Wheare,1964). The constitution of America is considered a federal constitution also from 1787 to 1913, with this feature that the general government depends upon regional governments for the election of members for senate. Elections for senators do not fall in the criteria for the constitution to be called a federal constitution. Every constitution which based on federal principle means of co-operative division of power between State and its constituent units is a federal constitution.

The association in America is in a way that ,neither central government ,nor provincial government sub-ordinate to each other, but both sets of government are working independently in their own sphere by the constitution of United States in co-ordinate manner. In fact this is real concept of federal government. Or principle of federal system, due to this principle the American federal government is considered a good example of federal government.

After that other federal States came into being, including the developed States like Canada, Germany Switzerland, the developing States such as Malaysia, India and Pakistan and less developed states including Nepal, Burma have been adopted the federal system. There are 29 States adopted the federal system until now.

## **Genesis of federation of Pakistan**

The genesis of federation of Pakistan started under the colonial era of British rulers. Indian writer Harihar Bhattacharyya noted it as "Federation in India, Pakistan and Malaysia has its origins in the British colonial period" (Bhattacharyya, 2010) the formation of federation of Pakistan is a legacy of colonial period.

Pakistan has been formed a federation since the independence. Before the making of Pakistan the present areas of this country were under the rule of British Empire. These areas of British India were thick populated by Muslims had divergent ethnic groups with different language and culture, like Bengali, Sindhi, Punjabi, Baloch, Pakhtoon and Siraiky. Watts defined "federal concept" The principle of organization whereby a compromise is achieved between concurrent demands for union and for territorial diversity within society the establishment of a single political system within which general and regional governments are assigned co-ordinate authority such that neither level of government is legally or politically sub-ordinate to the other".(Watts.1964) This definition of Watts indicates a particular type of society that is a federal society. A federal society is that where various ethnic, cultural and linguistic groups are living geographically on same place is a federal society. In a federal State people belongs to various languages and ethnic groups and nationalities. Mehrunisa Ali quoted Michael Stein calls that "society federal which is poly-ethnic and multi-ligula in its makeup" (Ali 1996). In such society where there is a diverse ethnic, cultural and linguistic groups are surviving definitely the rise of two opposite forces like Unity and Diversity is unavoidable. As Livingstone said that, "federal governments and federal constitution arise in response to certain stimuli; a federal system is consciously adopted as a means of solving the problems represented by those stimuli". (Livingstone 1956).The present federating units of Pakistan were independent countries earlier the occupation of British Empire, such as Sindh was independent country under the rule of Talpures. Punjab was governed by Sikh rulers. Sindh conquered in 1843 and Punjab in 1849. After the occupation of whole subcontinent British rulers restructured the subcontinent for example Sindh was merged with Mumbai Presidency. The people of these areas wanted to restore their independent and sovereign status by getting self- rule. Though there was an exclusive control of British on whole India even than Patriotic indigenouse people continued their movement for the rule of local people. British also started some reforms after taking control on subcontinent and those reforms generated the concept of self- rule in the people of united India. In the result local people formed their political parties such as Indian National Congress and All India Muslim League. The steps of constitutional reforms encouraged the local people for separate land and the leadership of political parties led the people for independence. There is a wide-ranging history of Pakistan while emerging as a federation. The role of a few of political parties in general and in particular the historical role of All India Muslim League and its leadership, such as the specific role of Quaid-e Azam Muhammad Ali Jinnah the founder of Pakistan is vital.

## **Role of Muslim League**

Muslim league, Indian National Congress and Pakhtoon's Khudai Khidmatgar Movement and other political parties demanded for federalism in British India during the constitutional debate was going on in subcontinent. Muslim League was very eager for the adaptation of federal system in India, that was the spirit of party that it not involved only in the collective efforts with Indian National Congress but it also took efforts individually on its party platform for establishing the federation in India. During their rule British also took measures for the federal system of government in this context the commission on decentralization was set in 1909. The constitutional reforms of 1909, generally known as Minto- Morley Reforms, as says Mansoor Akbar kundi "that was an embryonic stage of federalism in which the demand was made for the separate electorate for Muslims" (kundi, 2002),in fact the demand of separate electorate was for the recognition of a Muslims as a 'Nation'. It was considered the first phase of the formation of federal structure for the

distribution of power between the central government and provinces. After that few years later in 1916 the Lucknow pact was presented for more shares in central legislature. The Act of 1919 and system of diarchy the transform of some subject to the locals also the steps towards the federal system. Montague-Chelmsford' Reforms of 1919 were the result of collective efforts of Muslim League and Indian National Congress to promote the federal system in India. "What made the emergence of some Muslim majority provinces so significant the Reforms of 1919, which initiated the trend towards the devolution of power to the Provinces, the reforms conceded greater powers to the councils and for the first time the Indians were entrusted with responsibility in respect of the transferred subjects such as education, local government, agriculture, etc. Thus the Muslim demographic dominance in Bengal and Punjab ensured them a share in the province power pie." (Mujahid, 2018). Simon Commission, Nehru Report, 14 Points of Muhammad Ali Jinnah Indian Statutory Commission 1929 and Round Table Conferences and address of Allama Iqbal are steps to formation of the federation of Pakistan.

British government sent a commission to India. 'The Simon Commission' this commission also referred as the Indian Statutory Commission lacking Indian representatives. It was consisted of seven members of Parliament, headed by Sir John Simon. Commission was made to discuss the constitutional issues of India and to make recommendations for India's future constitution, although the All India Muslim League and Congress were two large political parties of British India, but that Commission was not contained the members of any political party belonging to India and neither any constitutional expert from India. There was no representative in Commission form Indian people. The Indian National Congress boycotted it and Muslim League was divided in the two groups one was supported to Commission and other boycotted it. One group was led by Jinnah and other was led by Sir Shafi. In the result. One protest has become infamous against the Simon Commission. The Indian nationalist Lala Lajpat Rai led this agitation. He had moved a resolution against the Commission in the Legislative Assembly of Punjab in February 1928. On 30 October 1928, the Commission came to Lahore where it was greeted by demonstrators raising black flags. The local police force continued to beat protesters in order to make way for the Tribunal. Lala Lajpat Rai sustained serious injuries and died a fortnight later . (Corinne,1977).

After the Simon Commission the roundtable conferences were held in London for the future of the representative of Indian people also invited them to participate in the conference. In the result of the Commissions for constitutional reforms and roundtable conferences the new act was introduced by British rules the Indian Act 1935.

### **Government of Indian Act 1935**

The government of Indian Act of 1935 was a document of constitutional reforms, which was introduced by British government, had given priority to the provincial autonomy in context to adopt the federal system in India. Because of this feature the Act of 1935 named as the Indian's first constitution with "Federal System".

The powers were distributed in to three lists of subjects between Centre and Provinces.

1. The list of federal subjects had 59 subjects
2. The list of provincial subjects had 59 subjects also
3. The list of having the subjects on which both, the governments (Centre and Provinces) can legislate was; concurrent list had 36 subjects.

Sindh separated from Mumbai Presidency and provincial status of Sindh also restored according to this Act in 1936. The 1935 India Act provided no role for the Centre, and autonomous and independent provinces entered into an agreement to form the new federation

### **Lahore Resolution 1940**

There is general perception that the federation of Pakistan was established on the base of Lahore resolution of 1940. "In fact the important point regarding the provincial autonomy and sovereignty for the Muslims of northwestern and eastern part of India was emphasized in this resolution. (Chandio, 2020). According to Waseem (2010) "on the one hand, the Lahore Resolution has been officially celebrated in Pakistan because it publicly rationalized the separatist agenda of the Muslim League for the first time on the other hand, it provided the con-federalist ambitions of Bengali, Sindhi, Baloch, and Pakhtun Nationalists who interpreted it as the foundation of a new social contract between provinces, in order to become part of the new State". 1940 resolution resolved that it is the considered view of this session of the all India Muslim League that no constitutional plan would be workable in this country or acceptable to Muslims, unless it is designed on the following basic principle namely. The geographically contiguous units are demarcated into regions which should be so constituted, with such territorial readjustments as may be necessary, that the areas in which the Muslims are numerically in a majority as in the North Western and Eastern zones of India, should be grouped to constitute "independent states" in which the constituent units shall be autonomous and sovereign (Khan, 2009).

The 3 June plan was announced by Lord Mountbatten in 1947 with consensus of leaders of Indian political parties the All India Muslim League and Congress for the partition of India. The Indian Independence act was passed on 18<sup>th</sup> July 1947, and Pakistan came into being on 14 August 1947 as a Federal State on the base of Lahore Resolution 1940.

### **Role of Quaid-e-Azam for establishing a federation for Muslims in India**

History of Pakistan movement elaborates the role of Quaid-e-Azam for the establishment of federal State of India. As a constitutional expert he always emphasized that, India should be adopted the federal system, as a federalist politician he was great supporter of weak Centre and strong units in a federal State. "Although it seem M.A Jinnah, considered as the founder of Pakistan, is also considered to be the founding father of Pakistan federalism. Pakistani scholars refer to his federalist ideas for ideological support" (Bhattachria,2010). "S.J.Ahmed believed that for Jinnah, federalism was the principle on which the Muslim State would be organized. He quoted Jinnah's statement dated 10 December 1945 "our Pakistan will probably be a federal government modeled on the lines of autonomous provinces, with the key powers in matters of defense and foreign affairs, etc at the Centre."

During the visit of Simon Commission Nehru presented charter of demands which known as Nehru Report in 1928, And Jinnah presented his 14 points in 1929 in the response of Nehru Report, in first point he put forward the demand for federal constitution and provincial Autonomy.

"(1). The form of the future constitution should be, federal with the residuary powers vested in the provinces.

(2).The uniform measures of autonomy shall be granted to all provinces" (Sarwar, 2005).

Quaid-e-Azam also stated in his fourteen points. Particular in No. 6 point that territorial redistribution that might at any time be necessary shall not in any way, affect the

Muslim majority in the Punjab, Bengal and North West Frontier Province". (Ibid) .All these statements of Quaid's fourteen points supported the federal system in India. Similarly Arbab Muhammad Jahangir says. "The Quaid's important 14 points in response to the Nehru Report in 1928 reiterated the demand for federalism by seeking the maximum autonomy and residuary powers for the provinces. He asked for the abolition of diarchy in the provinces".( Kundi& Jahangir 2002)

In the Projection of Lahore resolution of 1940 Quaid-e-Azam again states in1945 that "The theory of Pakistan ensures that the federal units of the national governments will have all the Independence they will find in the constitutions of the United States of America, Canada, and Australia but some vital forces will remain in the Central government such as the monetary system national defense and federal responsibilities" (Quaid-e-Azam) November 1945. After the 20 days of June 3<sup>rd</sup> plan Jinnah while talking with Commander in Chief General Locart said regarding the transfer of power in new independent State of Pakistan. He said "In newly established country of Pakistan the distribution of powers between Centre and its units will be in a way that the Centre would exercise the power of few of countable department like defense, foreign and etc. (Chandio,2020) and rest of power were to be exercised by the Government of its federating units. Syed Sharifuddin Pirzada (2017) says. "The Quaid-E-Azam proposed that constitutional arrangement be made for granting residuary powers to the provinces by determining the excessive jurisdiction of the central government in the provinces" components from the ethno-nationalist leadership claim that: Jinnah proposed confederation for Pakistan.

## **Conclusion**

The society where there diverse ethnic, cultural and linguistic groups are surviving is required to adopt federal system to satisfy the diversity, Federalism is the system which is consciously adopted by the people of region they are different to each other on the basis of language, ethnicity. This system protects their socioeconomic, political, and cultural interests under the federation. Where every ethnic group has a share in federal government, and also their separate identity is being saved under separate Unit's governments. Struggle for the self-rule and demand for more participation of local people in government affairs pressurized the British rulers for constitutional reforms and these constitutional reforms opened the doors for local people particularly the Muslims of British India took advantage through constitutional reforms which led them to the formation of independent states in sub-continent of India. Resultantly the struggles of indigenous people and reforms by the British rulers form the federation of Pakistan.

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