



RESEARCH PAPER

A Study of the Problems of Federalism in Pakistan (1947-1971)

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ABSTRACT

Various scholars agree that the structuring of a federal form of government requires that the powers granted to the local units must not be trivial but substantial. Moreover, a federal constitution embodying federal principles alone would not be enough to satisfy different groups in a plural society but the principle of federal constitutionalism must be observed which involves the respect of the spirit of the constitution by those who operate different state organs. In the early phase of the constitutional and political history of Pakistan, the working relationship between the federal government and various provincial governments had not remained ideal whereas the constitutional settlement of various federal problems like the nature of legislature, distribution of powers, proportion of representation for units along with mode and shape of the electoral system were among some of the key issues faced by the decision makers in the country which ultimately led to the enforcement of One-Unit Scheme inherently manifesting a highly centralized form of government. Accordingly, this study reviews the constitutional and political problems faced by the ruling elite in Pakistan in terms of establishing a genuine federal form of government after 1947 until 1971. While analyzing various constitutional proposals and instruments applied in Pakistan, it finds that Pakistan never enjoyed a true federal setup during the period under analysis hence the country could not inculcate and enjoy the much-desired political stability.

KEYWORDS Federalism in Pakistan, One Unit Scheme, Representation Issues, Civil-Military Oligarchy

Introduction

The federal system, on the one hand, provides an opportunity to different ethnic and cultural groups to maintain their separate entities and, on the other hand, with the passage of time, it helps to integrate these different groups into a single nationhood which amounts to a unity through diversity. In a federal system it seems inevitable that there should be tensions between the federal government and the constituent units over the years, and the balance of power between the general and the regional governments should shift from time to time. However, a great many difficulties that arise in a federal set up can be avoided or at any rate minimized if those who administer the units and the federation realize that they sink or swim together. This purpose can be achieved by allowing the units to enjoy maximum possible autonomy and associating the local elite with the working of the general government and have a substantial participation in the decision making process at the federal level.

There are two aspects of the problem of federalism in Pakistan i.e. the practical and the constitutional aspects. The practical aspect refers to the working relationship between the federal government and the provincial governments. For instance, the provinces in Pakistan have often complained that the federal government has interfered in matters which were purely the concern of a provincial government. The constitutional aspect refers

to the problems of federalism which need a constitutional settlement i.e. the distribution of the subjects among the units and the federation, a bicameral or a unicameral legislature, a weak or a powerful Upper House, mode of election and the proportion of representation for the units etc. Pakistan has been facing both aspects of the problems of federalism.

Literature Review

There is a wealth of literature on the (day to day relationship between the central government and the provincial governments in Pakistan which offers detailed illustration of how the central government dominated and interfered with the business of the provincial governments. The central government, while successfully playing off the differences between various rival groups constituting the provincial legislatures, had very frequently dismissed and restructured the ministries in the provinces. Many times the central government appointed such individuals as chief ministers in various provinces who did not enjoy the backing of the simple majority in their respective legislatures and managed to keep them in office by not convening the meetings of these legislatures through the provincial governors and sometimes they delayed the budget session of these legislatures as the nominee of the central government could not get the budget through their respective legislatures. From 1947 to 1958 when a Parliamentary form of government was introduced in Pakistan first under the Independence Act of 1947 and then under the constitution of 1956, the provincial ministries were dismissed and the legislatures were dissolved by the central government in every province from time to time. It will not be useful to repeat all these events in the present study, nevertheless a few significant instances do deserve to be mentioned for the advancement of our argument.

Dismissal of the Congress Ministry in the North West Frontier Province (NWFP)

The first significant event in the constitutional history of Pakistan took place when in the first week of August 1947 after the people of NWFP had decided to join Pakistan through a referendum, Jinnah advised Lord Mountbatten either to dismiss the Congress ministry and form a Muslim League ministry instead or impose section 93 of the Government of India Act 1935 in the province and then install a Muslim League ministry by 14 August at the latest (Mansergh & Moon, 1982: Vol. XII: Document 385).

Lord Mountbatten proposed (Mansergh & Moon, 1982: Vol. XII: Document 387) to the India office that the latter alternative should be adopted but the India Office disagreed (Mansergh & Moon, 1982: Vol. XII: Document 387 & 407) with his suggestion on the grounds that neither of the proposals could be considered as they were unconstitutional and His Majesty's Government could not take any such steps for which they could offer no justification.

There is no doubt that before the referendum was held, Dr. Khan Sahib, the Congress premier of the Province, was demanding a separate independent state for the Pathans (Mansergh & Moon, 1982: Vol. XII: Document 475) and the situation was further complicated when the Government of Afghanistan referring to Article 11 of the Anglo-Afghan Treaty of 1921 demanded the return of its Afghan territories in Balochistan and NWFP (Mansergh & Moon, 1982: Vol. XII: Document 395). This did not receive any response from the British Government but there is strong evidence that after the referendum was held the Congress ministry assured its loyalty to Pakistan and Dr. Khan Sahib declared that his party wanted complete provincial autonomy and non-interference from other provinces within the framework of a united Pakistan (Mansergh & Moon, 1982: Vol. XII: Document 393 & 433). Sir George Cunningham, the Governor of NWFP, also believed that the Congress ministry had no intention of acting against Pakistan, and that they were only frightened of Punjabi domination. He added that Jinnah would definitely dismiss the ministry although he (Cunningham) had advised him not to do so (Mansergh & Moon, 1982: Vol. XII: Document 481: Enc. 1). It is interesting to note here that even in 1948 Cunningham advised Jinnah to

effect a reconciliation with the Congress leaders in the province. The urgings fell on deaf ears. In such circumstances, it was crucial that a political accommodation and settlement was sought by the national elite of Pakistan but it appears to some scholars (Sayeed, 1968:272; Moon, 1961:57) that Jinnah and Liaquat lacked the proper knowledge of the Frontier situation.

On 22 August 1947, the Governor of the NWFP was directed by the Governor General of Pakistan to dismiss the Congress ministry. It was reported that the ministry had refused to take the new oath of loyalty to Pakistan (Birdwood, 1953:53) and had showed disrespect to the sovereign flag of Pakistan by declining to attend its hoisting ceremony (Ali, 1967: 251; also see the Daily Dawn, Karachi, 27 August 1947). But none of these versions appear to be true as Dr. Khan had made it abundantly clear to the Governor that he would not resign and would participate in the ceremonies if not dismissed (Mansergh & Moon, 1982: Vol. XII: Document 433). After the dismissal of the Congress ministry, Abdul Qaiyum Khan was installed as Chief Minister but did not enjoy the confidence of the majority of the legislature as the dismissed Congress ministry still enjoyed the support of 33 members out of 50. One can argue that as the Congress ministry had opposed the idea of Pakistan and the popular referendum had been to join Pakistan then the Congress ministry did not represent the will of the people. But the point is that the Congress ministry was a part of a legislature which was elected in 1945-46, so it was not the ministry but the legislature which had lost the confidence of the people so the correct course was to dissolve the legislature and hold fresh elections. The minority government of Qaiyum continued however in office till it managed to enlist some further support in the legislature. The Khudai Khidmatgar party led by Abdul Ghaffar Khan was banned and was denied the right to function within the constitutional limits of the new country and Abdul Ghaffar Khan was detained and spent most of his life in prison after 1947.

Dismissal of the Ministry in Sindh

In April 1948, M. A. Khuhru, the Chief Minister of Sindh was dismissed on charges of maladministration, gross misconduct and corruption. The Governor General's step could be related to a resolution unanimously passed by the Sindh Assembly on February 2, 1948 to oppose the contemplated move of the Pakistan government to remove the city of Karachi from the control of Sindh administration and place it under its own jurisdiction as a centrally administered area. This could have been a possible reason for the dismissal of the Chief Minister who still enjoyed the confidence of the legislature and was cleared from the reported charges by the Judicial Tribunal. It is interesting to note here that Section 51(5) which required the provincial Governor to comply with the directions of the Governor-General in matters of choosing, summoning and dismissal of ministers, was inserted in the amended Government of India Act 1935 by Lord Mountbatten on the advice of Jinnah (Sayeed, 1968:272). Further, to control and dictate to the provincial governments, the Governor-General brought back an improved version of the old section 93 of the 1935 Act in the form of Section 92 A in the adapted Act. Under Section 93 the Provincial Governor in his discretion but with the concurrence of the Governor General, could proclaim a State of Emergency in a province. However, under the new Section 92-A, the initiative was given to the Governor General and the Provincial Governor in such a situation had to function on behalf of the Governor General. It is evident that the All India Muslim League which had stood for provincial autonomy and a federation had started moving towards centralism from the very beginning. It is interesting to note that all the constitutions of Pakistan (1956, 1962, 1973) have clauses similar to Section 92 A inserted by the Governor General through the Third Amendment into the adapted Act of 1947.

Problem of Balochistan and the State of Kalat

Balochistan under British rule was not a Governor's province; rather, it consisted of several different types of territories and was "unknown" to the rest of India according to

some scholars (Wilcox, 1963:151). That Balochistan was divided into following four types of territories.

- 1) The Chief Commissioner's Province.
- 2) The leased areas.
- 3) The tribal areas.
- 4) States.

At the time of partition, the tribal areas had desired to form a federation with the State of Kalat rather than joining Pakistan while Kalat had demanded the return of its leased areas after the British government left India and it was Jinnah himself who advised the Khan of Kalat to make such representations. The territories 1,2 and 3 joined Pakistan, through voting of the members consisting of Shahi Jirga and Quetta Municipality. But the case of the States was quite complicated.

Early in August 1947 the Provisional Government of Pakistan while using the good offices of Lord Mountbatten signed an agreement with the Khan of Kalat (Khan, 1975:148; Mansergh & Moon, 1982: Vol. XII: Document 330 (this latter document cited in detail the initial agreement which Jinnah was reluctant to approve)). Under the said agreement, the Pakistan Government had accepted Kalat as an independent Sovereign State enjoying a status different from rest of the Indian States.

On 15 August 1947, the Khan of Kalat declared the independence of his state. It appears that the All India Muslim League leadership had committed a diplomatic and constitutional mistake in recognizing Kalat as an independent and sovereign state and accepting the position of the British Government under the said agreement. On the contrary, Nehru had comprehended the situation well in 1946 when he opposed the idea of the return of leased areas to Kalat and recognizing its independent status (See Nehru's statement in the Daily Dawn, 18 July, 1946).

After Pakistan was established Jinnah, realising his technical mistake, pressed the Khan to accede to Pakistan using his personal ties with the Khan (the Khan of Kalat has explained his close relations with Jinnah in his autobiography. Jinnah was also his legal adviser before 1947. Jinnah used his personal relations in persuading the Khan to merge his state with Pakistan. This was also confirmed by Mr. Ghaus Bakhsh Bizenjo in his interview with Mr. Fayyaz Ahmad Hussain, one of the authors of the current study, London September 1984) but the Khan and his nobles were against any such arrangement (Bizenjo told the author that both the Houses of the State (Kalat) legislature had unanimously opposed the idea of accession to or amalgamation with Pakistan of Kalat. He repeated the same statement in his interview with Daily Jang Forum, appeared in the Daily Jang, London 8 October 1984. Also see his interview in the Daily Jang London Nov. 4, 1985). Two months after independence the Khan flew to Karachi to discuss ways and means of further cementing the relations between Pakistan and Kalat but did not receive any attention from the Pakistan Government (The Daily Dawn, 12 October 1947). On 28 February 1948, the Kalat National Party successfully sponsored a "no accession bill" in the lower House of the State legislature. The Party General Secretary said:

"Here is the question of prestige. There are no big points of difference as we are prepared to give all to Pakistan that comes under the subjects of defence, foreign affairs and communications (The Daily Dawn, February 27, 1948)."

If we analyse the above-mentioned offer, it appears that this was a good start for the federal arrangement of Kalat with Pakistan which could have been improved on after a

passage of time. Many political leaders in Balochistan later confirmed that the Khan never contemplated a sovereign State of his own---he only wanted internal autonomy and had a desire to unite the fragmented territories of Balochistan within the framework of Pakistan (interviews of Akbar Bugti, Zamurad Hussain, Gul Khan Naseer, Faiz Muhammad, Khudai Noor with Fayyaz Ahmad Hussain, Quetta May 1982 and Bizenjo, London, September 1984). But the government of Pakistan took another step which further complicated the situation. They recognized Kharan, Makran and Lasbela as independent states equal to that of Kalat and accepted their accession to Pakistan. The Pakistan Government believed the Kalat state being a landlocked area, needed these coastal states to retain its independence and to be of a significant size and thus while isolated and landlocked would be forced to accede to Pakistan. This action of Pakistan Government lacked foresight and statesmanship. Instead of integrating these different regions of Balochistan, as the British did during their Raj, the Pakistan Government opened a Pandora's box by giving recognition to many smaller states. This "unwise" action antagonized the Khan and his nobles badly (Khan, 1975). The dispute between Kalat and Pakistan at that time was one of degree and not of substance as the Khan was prepared to give Pakistan all the subjects which a federal government usually has in a federation but wanted to retain his separate entity (interview of Faiz Muhammad Yousufzai with Fayyaz Ahmed Hussain, Quetta May 1982. Mr. Faiz was a founder member of the Kalat National Party and a close friend of the Khan. Gul Khan Nasir and Bizenjo support the same view; also see Khan, 1975), whereas the Pakistan Government insisted on complete absorption of his state. Jinnah himself visited Kalat in March 1948 but was unable to secure any agreement. Finally, the Pakistan Government, through an alleged use of force, managed the Khan to sign the document of accession, nevertheless the official version of the state of Pakistan refutes this allegation. The Khan capitulated, but his brother Prince Karim, the then Governor of Makran, declared a revolt against Pakistan. Selig Harrison has given the details of his surrender and assurance of safe conduct and amnesty from the Pakistan Army, which, according to Harrison, was not honoured and he was imprisoned for many years (Harrison, 1981). This annexation by Pakistan in 1948 was not the end of the matter.

In the succeeding years the Pakistan Government prepared and considered many plans to integrate different territories of Balochistan into a single province but no decision was taken and implemented seriously. In 1950, it was known that the State Government was being formed afresh with the Khan as its constitutional figurehead. In the autumn of 1950, the Balochistan Reforms Commission was formed which recommended a Governor's Province without tampering, for the time being, with the Sardari tribal system, but this report fell on deaf ears. One wonders why the Pakistan government did not consider the Commission's report, when it had been the demand of the All India Muslim League before independence that Balochistan must be given the status of a Governor's Province. Again in 1952, it was learnt that the possibility of forming a union of the four Baloch states was being explored. The Khan of Kalat was to be Life Chairman of the Council of Rulers at the head of such a union. The first elections to be held in 1954 did not take place and "Balochistan could but watch" (Wilcox, 1963). This arrangement could possibly have been successful as it met the Baloch demand of local self-government and could also have been helpful in integrating different separate territories of Balochistan for their ultimate integration with the rest of society in Pakistan. It is believed that the Khan of Kalat was happy about this arrangement as he would have emerged as the leader of the Balochs and saw it as a reversal of earlier government policies. But, the fate of Balochistan remained undecided as this decision was not implemented until 1954 when all the fragmented territories of Balochistan were merged into a single province of West Pakistan.

Problems of Constitution Making (1947-56)

Pakistan in 1947 had manifold problems regarding constitution making. The Eastern Zone i.e. East Bengal was a single unit whereas the Western zone consisted of many different types of territories i.e. three Provinces, a chief commissioner's province, tribal agencies, leased areas and states. The main issue in the constitution making was the

structure of the legislature i.e. whether the legislature should be unicameral or bicameral and what should be the proportion of representation in the legislature. If there was a unicameral legislature should all the units have equal representation in it or should there be some different ratio of representation. If the legislature had to be bicameral then what should be the balance of power between the two houses. Should the lower house dominate the other or should they have equal powers? These were some crucial questions faced by the ruling elite of Pakistan.

Analysis of the First Report of the Basic Principles Committee (BPC)

The first report of the BPC provided for a bicameral legislature, with a House of People elected directly on the basis of one man one vote and a House of Units representing the legislatures of the Units with equal representation for all the units. Both the Houses had equal powers, the cabinet was responsible to both, and to resolve any dispute, a joint session of the Houses was to be summoned. The strength of the Houses was not defined in the said report and the Committee did not outline the distribution of the subjects between the federal government and the units. If we analyze the said report it appears that the Committee was in tune with the practice and tradition of other federal constitutions by providing a bicameral legislature and equal representation for all the units in the Upper House. The Upper House is more specifically federal in character, as in a federation it has traditionally a more important role. In federations, the Upper House is provided to reflect the interests or views of the constituent units, either as regions or as political entities, and its powers are intended to provide a means of protecting those units and their inhabitants against improper and injurious federal measures (Choudhry, 1969:70).

In fact, the Upper House in a federal system bridges the gap between the constituent units and the federation. It often offers the constituent units a greater influence in federal affairs as compared to that their population would justify for them. Thus, the structure of the Upper House in federations has been in response to the following two apprehensions.

- a) The smaller units may fear that the larger and more populous units could use their majorities in the Lower House to injure them.
- b) Both large and small units may entertain the suspicion that the federation might encroach unduly on their interests and authority.

If we have a look at other federal constitutions, the representation in the Upper House and its power *viz. a viz.* the Lower House vary from constitution to constitution. The United States of America, Switzerland, Canada, Australia, India and Germany have different structure and powers of the Upper House. The Committee might have justified their proposal of an Upper House with equal representation for all units after the American model as the conditions among the federating units of Pakistan were almost the same as that of the American states at the Philadelphia convention, which were fearing the domination of the federal government as well as the domination of the smaller states by the larger states. In Pakistan the situation was even more complicated where some of the units had attempted to attain independence, rather than to form the federation on the basis of the above-mentioned apprehension. But, it appears that it is not desirable to follow any model at any specific time because human systems and institutions undergo the process of change and transformation and they are never the same at different times. In a system like the USA where the number of states is 50, equal representation for all the states in the Senate could be acceptable even though the State of California is more than 43 times larger than the States of Alaska, Delaware, District of Columbia, Nevada, North Dakota, Vermont and Wyoming (this information has been derived from *The New Webster Encyclopedic Dictionary of the English Language*, Chicago, Consolidated Book Publishers, 1980).

In Pakistan, the number of units was 5 and thus the disparity created by equal representation appeared greater. Moreover, in the USA the House of Representatives and the Senate do not have equal powers, rather they have relative importance which varies from sphere to sphere and they operate in a system of checks and balances. In Pakistan, it appears that the problem of representation was quite complicated and did not receive any serious attention from the framers of the constitutions. Had the framers of the constitutions worked out a formula of maximum provincial autonomy and a federal government with minimum powers, the smaller provinces could have possibly agreed for an effective but not equal representation in the federal government. But the smaller units had apprehensions that the future system would create a stronger federal government and weaker provinces which added to the complication of the situation. In these circumstances the first report of the BPC received strong opposition in East Bengal and there were agitations against it (see the Pakistan Observer, Dacca, October 1, 1950).

There was a convention in Dacca on 4 and 5 November 1950 which promised an alternative constitution and recommended a form of government having two autonomous regional governments for the Eastern and Western zone and one central Parliament on the basis of population with powers to deal with foreign affairs, currency and defence only. The successive constitutional developments in the Western zone provide the evidence for the belief that as a reaction to the above mentioned constitutional arrangement, the largest province of the Western zone i.e. the Punjab, worked out a scheme of zonal federation first, then the amalgamation of the different units into a single province of West Pakistan, to establish an equal footing with East Bengal and then bargain with it for a favourable constitutional arrangement. We shall discuss this aspect later in this study. In view of the opposition from East Bengal, constitution making on the basis of the first report of the BPC was postponed and the Committee was asked to reconsider its recommendations. Noteworthy, the report had a favourable reaction in the Western Zone of the country.

The Second Report of the BPC

The second draft provided for a bicameral legislature wherein both Houses would have equal members from the Eastern and the Western zones. The real authority was to be vested in the House of People whereas the House of Units could only recommend revision in hasty legislation and the council of ministers was responsible to the House of the People only. All money bills were to originate in the House of the People and in the case of any conflict between the Houses, joint sittings of the Houses were to decide the issue with a simple majority.

Some scholars (Choudhry, 1969; Sayeed, 1967; Callard, 1957) have approved the second draft constitution as bringing about a constitutional balance of power as well as responsibilities between the two zones. They regarded the principle of parity between East and West as its most significant contribution towards solving the problem of representation in the federal legislature. But we differ from this point of view. Firstly, it seems quite illogical to treat the different territories of the Western zone as a single compact block on the basis of geographical contiguity against East Pakistan. If the geographical contiguity had been the basis of common interest, then the globe would have quite different international boundaries than at present. In our view the second draft had many flaws. It did not provide East Bengal a majority on the basis of its population in the Lower House. In the Upper House many different units of the Western Zone were treated as equal against a single unit of East Bengal and moreover the House of Units did not have any real powers. Again the draft did not specify the spheres of the two governments i.e. the federal and the zonal. The draft provided East Bengal the advantage to dominate the policies of the central government by winning the support of a few members of the legislature from the smaller provinces of the Western zone. While it did not satisfy the demand of the federating units from the Western zone that they should have effective, if not equal say in the decision making of the federal government, through a powerful Upper House.

The basic criticism of this draft in our view is that it denied the different units of the Western zone their separate identity, ignoring the historical facts that they had differences and grievances in the past and were apprehensive of domination by each other. The Punjabis and Pathans were at war (Noon, 1969:3-4) with each other for quite a long time before the British rule in those areas. The Sindhis had sought British help against the Punjab to save their territory from the latter. Balochistan had always been apprehensive of any domination or subjugation from Sindh and Punjab and had strong ties with Iran and Afghanistan (when Pakistan signed an agreement with Kalat on 4 August 1947, in the presence of Mountbatten, he told Jinnah that Kalat should be very useful for Pakistan to promote good will with Iran and Afghanistan; also see Khan, 1975). Moreover, after the creation of Pakistan, the Governor of NWFP had reported to the Governor General that the Pathans were apprehensive of Punjabi domination.

To sum up, the second draft constitution had a very unfavorable reception in the different provinces of the Western zone and it met the same fate as the first one and was rejected.

Muhammad Ali Formula

Mr. Bogra suggested two houses for the federal legislature, the House of Units and the House of People. The total strength recommended for the House of Units was fifty to be equally divided among the five units. The House of the People was to have a strength of 300 in which East Bengal had the majority, i.e. 165 seats out of 300. The rest of the seats, i.e. 135, were divided among the four units of the western Zone according to their population. There was a provision of equal powers for both Houses and a joint session of the two for the election of the Head of the State and for disposal of votes of no confidence. Decisions were to be made by a simple majority, provided however that such a majority must include at least 30% of the members from each zone. The differences between the two houses had to be settled through majority vote in the joint session of the two houses provided that such a majority included 30% of the members from each zone.

The critics of this formula believed that East Bengal being a single unit could easily win support of smaller units from the western zone hence could exclude Punjab from the policy and decision making process. Moreover, in such an arrangement, East Bengal with the support of some Punjabis could dominate Sindh, Balochistan, NWFP and the Punjab or it could enlist some supporters from Sindh and NWFP and could dominate the Punjab and Balochistan. But we have our different and original criticism of the formula. In the very first place, the formula was based on a wrong and unacceptable assumption that the different units of the western zone were happy and prepared to be treated as one block when voting in the legislature (political leaders from the different provinces of post 1971 Pakistan agreed with Fayyaz Ahmad Hussain in their interviews on this point. They included Akbar Bugti, Tahir Khan and Zamurrad Hussain, Quetta, May 1982, Wali Khan, London, September 1982, Ghaus Baksh Bizenjo, London, September 1984 and Hafeez Pirzada, London, December 1984).

Secondly, the formula denied the different territories of Balochistan the status of a province and equal representation in the Upper House; thirdly, under this formula, in the Upper House only East Bengal could benefit from the provision that for a decisive majority, it was essential that 30% members from each zone voted in favour of any bill. In our opinion, this clause had two flaws. It had given East Bengal a veto power in the Upper House as unless at least 3 members out of 10 voted in favour of any move, it could not be successful and this clause did not guarantee to the smaller units of the western zone that their interests would be safeguarded in either of the two combined houses, as 30% from the western zone in the Lower House meant half of the Punjab and in the Upper House, 10 members from the Punjab and two more members from any other province of the western zone. This clause did not save the smaller units from the hegemony of the larger and it could be meaningful only in

that case if it would have been made essential that to take a decision a majority of votes belonging to every unit large or small must be obtained. The most interesting point which has escaped the attention of the scholars in the past is that under this formula, the very existence of the Upper House was practically insignificant, which had equal representation from the five units and was meant to safeguard the interests of those smaller units which had less representation in the Lower House. The Upper House had fifty members as against 300 members of the Lower House and in a joint session of the two, simple majority amounted to 175 and the Lower House could easily exclude the Upper House from the decision making process in the absence of a clause that in a joint session the majority of voters must include half of the members from each House. There was no such clause and in a joint session, 175 members from the Lower House could dominate any meeting. We have to offer another criticism of the formula which is original and is not found in any earlier study that under this formula the seats among the different units of the western zone were not distributed equitably and proportionately. We can give a few examples. In the Lower House, Sindh had as many seats as NWFP whereas the former had a larger population. In the Upper House, Sindh, including the State of Khairpur, had 13 seats whereas the Punjab, including the State of Bahawalpur, had 14 seats. Moreover, the whole province of Balochistan had only 3 seats. It appears that this formula was an emotional and hasty move rather than a practicable and workable measure. This study does not suggest that there could be no improvements on this formula to make it workable, but in the meantime, there were other developments which altogether changed the pattern of the political system.

The Unification of West Pakistan

Earlier we discussed how, in Pakistan, the zonal parity was stressed and the rights and interests of the individual federating units of the western zone were not regarded as highly as they wished. East Bengal insisted that units of the western zone should form a single region against it and overlooked the fact that if the provinces of the western zone were combined, the Punjabis would get an overwhelming majority of 60% which was much larger than East Bengal's 56% majority against the total population of the western zone. The insistence of East Bengal on its majority rule at the federal level in Pakistan gave birth to the idea of the unification of the western zone. The Punjabis began to believe that:

"A fragmented West Pakistan has really nothing to ask East Pakistan because the realities of the situation in any conceivable pattern would already have given East Pakistan an inconvertible superiority" (see Constituent Assembly of Pakistan, debates 1558 on 7 September 1955. Zahiruddin (East Pakistan) read this paragraph from what he called a secret manifesto of the Punjab Muslim League).

This contention led to the idea of the establishment of one unit in the western zone of Pakistan. The first important and highly controversial task performed by the Second Constituent Assembly was the unification of West Pakistan. In the first instance, there was an attempt to introduce the One Unit scheme by an executive decree but it was frustrated by the decision of the Federal Court in Usif Patel's case (see case of Usif Patel and others vs. the Crown, reproduced in Jennings, PP.245-255).

It will be useful to note here that initially the scheme for the unification of the western zone moved in the First Constituent Assembly but it was foreseen that the proposal would not get the support in the legislature (Saeed, 1968) and they suggested a zonal sub-federation of West Pakistan to create a united province out of it (Saeed, 1968; Tendulkar, 1967).

The Governor General tried to pressure some of the influential members from the smaller provinces of West Pakistan into lending their support to the zonal sub-federation plan. It is believed (the author was told by Wali Khan, Bizenjo in their interviews with Fayyaz Ahmad Hussain that to get the One Unit scheme approved by the provincial legislatures, the

members were harassed. Suharawardy called it "Khuruism" as Khuruh in Sindh as Chief Minister had the bill passed by the Sindh Assembly by harassing the members. This has also been confirmed by some top rank civil servants in their interviews with Fayyaz Ahmad Hussain, one of the authors; also see Constituent Assembly of Pakistan Debates 1, 10 September 1955) that he threatened the members that if they did not do the same, they would be prosecuted under PRODA (Public and Representative Offices Disqualification Act 1949, under which the Government could start legal proceedings against ministers or members of the assemblies on the charge of misconduct or corruption). But later the architects of this plan realised that a zonal sub-federation would not serve the purpose of uniting the western zone against East Bengal (Tendulkar, 1967).

There is a wealth of literature about the procedure of how this One Unit scheme was passed by the respective competent bodies of different federating units in West Pakistan. How the ministries of Sardar Abdul Rashid Khan in NWFP and of Sattar Pirzada in Sindh were dismissed when they refused to get the One Unit bill passed by their respective assemblies is described by almost every author who has written about this scheme. Moreover, the legislature of the state of Bahawalpur was dissolved, and the State of Khairpur and the Balochistan States union were forced to merge their territories into a single province of West Pakistan (Wilcox, 1963). This discussion should not detain us here as the relevant point is the motives behind this one-unit scheme. Who was going to benefit from it and what were the implications of such a scheme for the federal problem of Pakistan at that time and in the future.

The exponents of this scheme prepared a lengthy note which consisted of many documents proposing the technique used in integrating West Pakistan. Mumtaz Daulatana is believed to be the principal author of these documents (Sayeed, 1968; also see report of the Committee of the Constituent Assembly which examined these documents in the Constituent Assembly of Pakistan Debates 1 (6 September 1955) PP.508-13 and (9 September 1955) PP.612-14. These documents were entitled Document "X" and Documents A, B and C). The author of these documents recommended that a combination of force and cunning should be used in integrating West Pakistan. He proposed that:

"The first necessity of the present context, therefore, is that we must clear the decks before we launch our political campaign. In other words, we must silence and render inoperative all opposition of which we are morally convinced that it is motivated by evil (see the above referred One Unit Documents, Document B, Para 2).

The author of the documents further recommended the dismissal of some provincial chief ministers and urged that the Government must not negotiate with Abdul Ghaffar Khan, a leader from the NWFP, who was against the unification of West Pakistan. He proposed that Dr. Khan Sahib, the former Chief Minister of the NWFP and elder brother of A. G. Khan, should be isolated from the latter who would consequently be eclipsed because individually he has no position.... on the contrary, if the two brothers stayed together, they would have united strength (Sayeed, 1968:77). It is interesting to note that later the Central Government succeeded in separating the two; Dr. Khan Sahib became the first Chief Minister of the United Province of West Pakistan, whereas A.G. Khan opposed the scheme and was detained behind bars. The author of the documents further urged that propaganda in favour of the integration should be organised in a highly skillful manner: statements by prominent persons, a coordinated press campaign, pamphlets and tracts, an intensive political campaign designed to win the support of both the intelligentsia and the dispossessed (labour, tenants, small landowners) use of mullahs, etc., were all suggested. It was recommended that the Punjab should not show any enthusiasm at the moment.

"At present we do not require too much noise in the Punjab. It will only put our people's backs up and cause suspicion ... At a later stage the Punjab will have to take the lead. At that time, I hope an effective intelligent Punjab leadership will have been put in place

both at the centre and at Lahore (see One Unit Documents, Document B, Para 6 and Document "X" Para 7 (viii)).

As far as the purpose of this unification scheme was concerned, these documents referred to the fact that West Pakistan, in its confrontation with East Bengal, should speak as one entity, because by then all real power laid within the central government in which Bengal had the dominating share. When there was only one unit in the West, the authority will be equally shared by the eastern and western wings of Pakistan. This contention supports our argument that it was East Bengal which by denying equal rights to the smaller provinces of the western zone made the Punjabis devise a scheme which not only saved them from the majority rule of the Bengalis at the centre, but also established Punjab's hegemony over the smaller provinces of the Western zone within a unified West Pakistan. Thus, the Punjab was destined to benefit from the electricity of the NWFP, the minerals of Balochistan and the vast agricultural land of Sindh (Tendulkar, 1967).

It was the Punjab that was going to benefit from the scheme on both the federal level where West Pakistan would become equal to East Pakistan and on the West Pakistan level where the Punjab being the largest and most developed province among the other provinces of the western zone, would be able to dominate and exploit them. As far as the benefit of the one unit to the Punjab at the Pakistan level was concerned, the documents stipulated:

"After integration had been accomplished in this manner and the right kind of leadership was placed in power in West Pakistan, negotiations should be opened with the Bengali leaders, particularly with the ambitious and intelligent Suhrawardy on the basis of a four subject centre, two provinces, federal parity, complete provincial and cultural autonomy (One Unit Documents, Document "X", Para 9).

As a consequence of the One Unit scheme, at the West Pakistan level, a unitary system had replaced the long-awaited and promised federal system whereas, at the All Pakistan level, East Bengal had lost its majority in proportion to its population. To sum up the One Unit scheme, one can quote Wilcox, an eminent scholar on India and Pakistan, who noted:

"Apparently no one seriously questioned whether a unitary West Pakistan was an answer to either the national, federal or West Pakistan problems. Neither did they consider the problems of absolute parity and almost inevitable paralysis which was sure to follow. Once more the politicians had ignored both the national vision and substantive issues which might have made it a dream come true (Wilcox, 1963:196)."

Now we shall discuss how this One Unit scheme was received by the smaller units of the western zone. Ministries in the NWFP, Sindh and the Punjab were dismissed and the members forming new ministries were bribed and harassed to support the bill. Especially in the NWFP and Balochistan there was agitation on a large scale. In Balochistan, the central government declared that there was a rebellion and the Khan of Kalat was preparing a plan to secede. The Central Government sent troops to Balochistan which succeeded in crushing the rebellion for the time being but the people of Balochistan never accepted the scheme and Prince Karim formed a party known as *Ustoman Gal* (People's Party) which opposed the one unit and demanded the formation of a unified Balochistan province. The Central Government succeeded in implementing the scheme albeit against the will of the people. Thus, the Punjab had killed two birds with one stone.

The Civil-Military Oligarchy

Before we move to the events that took place after the establishment of the one unit in West Pakistan, it would be useful to analyse a peculiar development in Pakistan which can be explained in terms of the struggle for power among the administrative, i.e.

bureaucracy (civil and military) and the political forces of the country since 1947. The colonial power in the newly independent state of Pakistan had left the bureaucratic and army institutions far better trained than the political forces and the country inherited a powerful bureaucracy and a trained and disciplined army and a weak and unorganized party system and political elite. Thus, Pakistan became a bureaucratic polity from the very beginning. What made the situation more complicated was the fact that the administrative forces were overwhelmingly manned by the Punjabis and to some extent people from the Muhajirs. Representation from Bengal, Sindh, NWFP and Balochistan was almost non-existent (in 1958 out of 29 secretaries at the federal level, there was only one from East Pakistan and there was none from Balochistan, Sindh, NWFP).

However, the Bengalis had more political training, a better organisation and had a majority in the Muslim League Parliamentary group and overall in the legislature. Given the weakness on the bureaucratic front, it was desirable that the Bengalis should have been vigilant to guide, unite and strengthen the political elite to give a political orientation to the system. But, it appears that the Bengali elite committed two mistakes. On the one hand, they failed to control the bureaucratic machinery by using their political power rather facilitated them to capture the highest position of political and constitutional authority, i.e. the Governor General in 1951 (after Liaquat's death, Nazimuddin became the Prime Minister and appointed a bureaucrat Ghulam Muhammad as the Governor General who later dismissed Nazimuddin and dissolved the constituent assembly. Nazimuddin and the Bengali Parliamentary Party did not realize that in the absence of a Parliamentary federal constitution, the post of Governor General was very powerful and crucial and should not be handed-over to a bureaucrat). On the other hand, the Bengalis antagonized the Punjabis and the Urdu speaking group by insisting on having a majority controlled government at the federal level. This caused suspicion and mistrust among the Punjabi elite who were weaker than their Bengali counterparts. The Punjabi elite supported and strengthened the bureaucracy to capture the power which they themselves, being in a minority, could not gain through the democratic and political process under a majority controlled central government of the Bengali elite. In this way, Pakistan was given a powerful and suppressive administrative system instead of an efficient and working political system. Some scholars believe that the conditions in Pakistan had already been "rigged against the Bengalis" (Eqbal Ahmad, an eminent scholar on Pakistan, argued in his interview with Fayyaz Ahmad Hussain (London June 1983) that right from the beginning, the conditions were not favourable for the Bengalis and they were represented by an Urdu speaking elite from Calcutta like Nazimuddin and Suhrawardy) but we do not agree to any such suggestion as there were occasions in the political and constitutional history of Pakistan when the political leadership from Bengal could have saved the country from the autocratic rule of bureaucracy which it failed to grasp.

Under these circumstances, when the 1956 constitution was framed, the political elite from Bengal had lost the position they should have occupied due to lack of initiative and effective leadership. They had placed themselves at the receiving end rather than at the distributing end. The 1956 constitution created a strong central government and weaker provinces and the source of the real power was the head of the state and not the Parliament. But again, as the Bengali leadership was not in control of the power structure, they accepted the constitution and assigned their consent. There were two factions of Bengal leadership, one of Suhrawardy and the other of Fazlul Haq. The former was promised that if they supported the constitution the central government would restore the Provincial government led by its party and end presidential rule. The latter faction was promised the post of the President under the new constitution, if they would support it to get through the constituent Assembly. In fact, none of them got anything; nevertheless, they approved the 1956 constitution (see Ali Muhammad Rashidi's series of articles "Mujib did not insist on disintegrating Pakistan" appearing in the Daily Jang (Urdu) London dated June 13, June 25, July 10 July 22, July 27, August 2, August 30, September 19, October 13 and October 31, 1985).

It is worth-noting here that the 1956 constitution was not an improvement on the 1935 or 1947 acts. As far as the federal principle was concerned, the President could any time suspend or dismiss the provincial government and dissolve the provincial assembly. Neither was it a Parliamentary constitution as the Head of State had more powers than the legislature. He could, of his own volition, dismiss the Prime Minister and could dissolve the legislature. Under these circumstances, there was unrest in the former smaller units of West Pakistan and East Pakistan against this autocratic system. The leadership from East Pakistan had realised its mistake and was demanding the dismemberment of the one unit and the introduction of a real federal system with maximum provincial autonomy in league with the elite of the former smaller provinces of West Pakistan. A bill was passed in the legislature that the one unit in West Pakistan should be abolished (Sayeed, 1968:85; Awan, 1985).

In 1957, a general election was scheduled to take place but the central government dominated by the civil and military bureaucrats supported by the Punjabis anticipated the result of such an election and postponed it. The "Civil Military Oligarchy" (Choudhry, 1969:6) realised that the result of a general election would reverse the situation altogether in favour of the Bengali political elite and created such a situation to ensure that under no circumstances would a Bengali dominated political government be formed in Pakistan (Choudhry, 1969).

In September-October 1958, President Mirza summoned the Khan of Kalat and told him that he wanted to restore his state in Balochistan if he could show his strength and could line up some Sardars behind him (this has been revealed by Akbar Bugti in his interview with Fayyaz Ahmad Hussain as referred earlier. Also see Bugti's interview and Sherbaz Mazari's interview published in the Daily Jang (Urdu) London dated October 14, 1985 and Oct. 3, 1985 respectively). The Khan called a meeting of the Sardars and the matter was discussed and then, taking advantage of such a meeting, the President proclaimed an emergency in Balochistan and declared that there was an armed rebellion in Kalat for separation from Pakistan. The armed forces were sent to Kalat, the Khan was arrested and many people were killed. On this plea, the President proclaimed Martial Law and appointed General Ayub as the Chief Martial Law Administrator on 7 October 1958. It was declared that the army had stepped in to save the situation. The Balochs felt insulted at the arrest of the Khan and there was an armed rebellion against the Martial Law regime. Nauroz Khan with his followers in Jhalawan offered a tough fight, but when Nauroz and his men came down from the hills, they were arrested and tried; seven of his men, including a son, were hanged and he got life imprisonment which he did not survive. The Martial Law regime arrested and detained all the influential Sardars from Balochistan and deposed many of them from their tribal leadership. During the Ayub regime, there was a constant rebellion in Balochistan for provincial autonomy and local rule.

There is not much to mention about the Ayub regime as far as the working of the federalism is concerned, because under his regime, there was no federation in Pakistan as it was a "modernizing oligarchy" (Almond & Coleman, 1971) in which the people had no participation (there was an indirect system of election under the Ayub regime and moreover, even the indirectly elected assemblies had no powers, thus denying any participation to the people). In a nutshell, the Ayub regime can be compared to the British Viceregal system which existed in India during 1930s and 1940s.

Conclusion

This study concludes that Pakistan never had a federal form of government since the constitutions of 1956, 1962, 1973 and the other constitutional arrangements introduced at various intervals of the history of the country did not provide substantial powers to the different constituting units in Pakistan. We have argued that the failure to adopt a federal solution to the problem of national integration in Pakistan had many reasons. The most significant reason was the uncompromising attitude of the political elite belonging to

different provinces which made it difficult for them to reach any workable agreement. During the drafting of the first constitution of Pakistan, the Bengali elite insisted on the establishment of their majority rule on the federal level and refused to recognise the separate entity of the different provinces of the western zone, thus denying them substantial participation at this level. They emphasised that the four province of the western zone should form one block as against East Bengal. This controversy was utilised by the Punjabi Muhajir ruling elite and they persuaded the Bengali majority party in the Constituent Assembly to render their support for the establishment of one unit in the western zone and acceptance of the parity principle between the east and the west. This led to the passage of the 1956 constitution which had undone the four provinces of the western zone and provided a unicameral legislature on the basis of equal representation from the two zones. In this way the Bengalis lost their majority representation and the four provinces of the west lost their separate entities which established a unitary form of government in Pakistan. Soon the Bengalis realised their mistake and desired to rectify it but by that time the civil military bureaucracy who had captured the power after the assassination of Liaqat had been successful in establishing their rule in Pakistan. They proclaimed the first martial law in 1958 and Pakistan was governed by an autocratic regime consisting of a civil military bureaucratic elite right up to 1971 when East Pakistan became Bangladesh.

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