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## **Constitutional colonialism: A case study of Pakistan**

### **Begging of End**

The 1940 resolution of Muslim League general council provided foundation for the emergence of a new state within south Asia—Pakistan. The resolution envisaged a loose federation of Muslim Majority provinces of sub-continent. Autonomous and sovereign states, as the resolution called the participant units. It is unfortunate however that not a single constitution of Pakistan followed that spirit (of independent and sovereign states).

Pakistan inherited 1935 Government of India act, which paved the way for separation of Sindh from Bombay presidency, and first provincial elections in 1937. Sindhi nationalist leadership was not however, satisfied with the quantum or magnitude of the autonomy provided under the said act. Sindh wanted a free hand in running its own affairs. When Muslim League through its 1940 resolution pretended to be champion of decentralization and autonomy, Sindhi leadership decided to go along with it.

Sindh was first and only province which in 1943, through a provincial assembly resolution, demanded a new country within South Asia—Pakistan, which would run in accordance to 1940 resolution.

Muslim League's Sindhi leadership, especially Sain G.M. Sayed and his fellows soon founded their dream of autonomous Sindh within the federation of Pakistan shattered. In 1945-46, when partition of sub-continent was in sight, Muslim league's central leadership started meddling into the local affairs of Sindh Muslim league. M.A. Jinnah and his toadies wanted to remote control Sindh. For Jinnah, Sindh was merely a pawn in the broader chess board of colonial politics. Same was true for Indian National congress which wanted Sindh to toe its line.

Sayed didn't agree with this however. For him, socio-economic and political interests of Sindh were supreme to All India politics. Borrowing words from renowned scholar Aysha Jalal, "Sayed wanted an independent Sindh within independent Pakistan."

And this is what he pleaded before cabinet Mission Plan which came to sub-continent in 1946.

Muslim league's parliamentary board met in Delhi in 1946, nullifying 1940 resolution, dropping the core sentence of the 1940 resolution 'sovereign and independent states'. That year of 1946 saw two provincial assemblies, struggling to bar Sindh's nationalist leadership from getting hold of power to become master of their own destination. Then British Governor of Sindh, Sir Moody, helped Muslim League with all illegal, extra-constitutional means to retain power of the province at the cost and peril of Sindhi nationalist leadership's influence. At one time, when he saw that nationalists within the assembly are about to form their won government under the leadership of sain G.M. Sayed, he dishonestly dissolved the assembly and sent legislators to be re-elected. The plan was to stop G.M. Sayed to re enter the assembly. Thus a web of systematic rigging denied Sayed and his comrade earlier position within the assembly. It is interesting to note that two years after the controversial election, in a constitutional petition, a court of law declared the elections rigged and levied fine on those who were involved in rigging the elections. It was too late however, by now. A new country had been founded by now in which Sindh had no say in running federal or provincial matters.

### **Pakistan: whither a federal state?**

Pakistan is a heterogeneous, multinational state. Equitable division of power is very essence of a federal system. Pakistan inherited, in 1947, the government of India Act, 1935, which had it listed three schedules: Federal, provincial and concurrent.

The interim constitution of 1947 adapted the Act with certain modifications, which gave birth to the centralization from the very beginning. The Governor General of newly found state, M.A. Jinnah, was empowered to declare emergency, to control the provinces and to direct the governors, and to direct the governors to assume power to run provincial affairs, on his behalf, under section 102, 126(5) and 92(A) of the interim constitution, thus rendering the provinces powerless, or simply at the mercy of the central government.

Pakistan had its first constitution in 1956—nine year after its foundation. At the time, Bengali nationalist under the umbrella of ‘Jugtu Front’ were at the forefront of demanding greater provincial autonomy. Thus 1956 constitution under article 109 vested residual powers in the provinces. Not to mention that at the time provincial autonomy did suit to Punjabi dominated establishment as Pakistan was under the notorious ‘one unit scheme’.

General Ayub Khan, who, in 1958, took control of Pakistan in a coup, following a military back palace coup, introduced the constitution of 1962, which miserably failed to address issue of provincial autonomy. Following independence of Bangladesh, in 1971, Z.A. Bhutto took reigns of power and introduced 1972 constitution, which later sought unanimous approval of all parties with the parliament as 1973 constitution. 1973 constitution is considered the fairest of all three constitutions that that country had, negates the essence of federalism, fails to protect political, financial and economic sovereignty of federating units. The constitution had in it two lists: Federal and Concurrent. Missing provincial list, which is prerequisite of every constitution of any federation. At the time, it was said that the schedule of lists would be revived in ten years and the provincial list would be incorporated.

Since then the country has witnessed two Martial Laws and sandwiched between four elected governments: all making amendments in the said constitution per their own needs and requirements. They all however, agreed on one point: continuing with the 1973 constitution.

It is strange that military dictators, moulvis and civilian politicians disagree on all the issues under the sun but agree on one point: continuing of 1973 constitution.