



## Picking up the Pieces from the Bottom and Political Development in Pakistan from 1951-55

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In the half of twentieth century, among newly emerging states on the map of the world, Pakistan was one of them. The creation of Pakistan was not an over-night phenomenon. It took years and many precious lives to make it practical. Right after the independence problems were waiting for the nascent state. At that time, there was dire need of charismatic leader however; the tiring freedom movement and health issues Jinnah's charisma was getting faded away. It was the time to reshape the country by picking up the pieces from the beneath to put the state on the track of political development. Furthermore, many hopes were attached to political leadership. Due to political maneuvering in the country the leadership could not full-fill the wishes of common people. The study analyzed the early phases of political development in the newly born state. It also discussed the role of institutions regarding the development of the state how the country came under the troubled waters and how the top brass leadership of the country misused their powers to disrupt the political landscape of Pakistan.

**Key Words:** Pakistan, Quaid-e-Azam, Leadership, Political development, 1951-1955.

### Introduction:

Dawn of independence brought many hurdles with it. Newly born states like Pakistan faced many challenges. Every apparatus which was essential to drive the state was absent. Leadership had to manage most of the stuff from the scratch. In the development of state, institutions play a pivotal role. Prosperity of any country can be gauged from the working of its institutions. Healthy relations between institutions and government pave way for the political development of state. In the initial years, Paki-



stan as nascent state saw many obstacles in her way. Dependency on the bureaucrats was the major reason for the derailment of democracy in the Pakistan. Parameters of state were decided from the side of officials instead of parliamentary leaders to decide the fate of the state.<sup>1</sup> After decades of post-independence period Pakistan stood as politically a weak entity. At the time of her creation Pakistan was came into being in the name of Islam and it stood as the biggest Islamic state. According to Ifikhar Ahmed views that:

“The essence of the freedom movement and establishment of Pakistan as an independent sovereign state, based on Islamic ideology was to establish a just society as visualized by Allama Muhammad Iqbal and Quaid-e-Azam Muhammad Ali Jinnah.”<sup>2</sup>

A political organized society remained a dream of Pakistan. Nobody knows either this dream will ever come true or not. It was generally considered by the research scholar that administrative institutes did not allow Pakistan to flourish politically. Their undue involvement became the real obstacle for the country. It is well known fact that the process of rotting fish starts from the top and it reaches to bottom. The whole of Pakistan's political structure was damaged in the early formative years. History witnessed through all the stages that it never presented a ray of light to the mob. On the other hands, India also got independence with Pakistan but it enjoyed all political developments since the day of its inception. India got its constitution within three years. On the other hands, Pakistan got its first constitutional draft after a long struggle of nine years.

Along with bureaucratic features Pakistan also inherited some of the trained administrative staff from united India. According to Suhail Mahmood views that:

“An early disadvantage in the creation of bureaucracy for the new state of Pakistan was that trained group of administrators of undivided India was composed of more Hindus than Muslims”

Pakistan as a state has very turbulent history. It saw frequent changes of government also faced a series of wars right after the emergence of the state. It was dragged between military rule and democratically elected governments, between secular policies and financial backing as a frontline state during cold war era. The process of the partition disrupted the both institutions like military and bureaucracy. Due to innumerable political economic

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<sup>1</sup> Cited by the author, it is an outcome of his own studies. He critically examined the books of history especially books on history of Pakistan.

<sup>2</sup> Qaisera Babri Mazhar. “*Bureaucracy and Politics in Pakistan 1947-1971*. P.26. M.phil Thesis, n.d.

and socio-politico, religious crisis Pakistan was shaken from the roots. Politicians were corrupt and they were power admiring people. All of their political culture was comprised on lust for power.<sup>3</sup>

Controversies arose between two wings of Pakistan. Language issue paved way for further disturbance in the political arena of Pakistan. These regional conflicts became reason for the delay in the constitutional process<sup>4</sup>.

At the time of independence, the treasury was empty. Pakistan had to collect its due share from Indian government. Due share of Pakistan could not entrust to its hands. As a newly born state it had to shape its foreign policy and also to reorganize its administrative institute like bureaucracy and military. After partition Jinnah did not departed his ways like, Indian leaders he plunged into the political war of the country. The process of rebuilding and building of state was started. Quaid became the first governor general of the state. Unfortunately, he could not command the state for long period of time and he died in 1948. As K.B Sayeed maintained:

‘As long as Jinnah was alive, he was Pakistan. He held the position of governor general, but the powers and influence that he exercised were far beyond those normally associated with that office. The cabinet rarely functioned without his directives. He was the supreme arbitrator between centre and provinces. His Prime Minister Liaqat Ali Khan emerged as de facto prime minister only after ...Jinnah’s death in September 1948.’<sup>5</sup>

An independent country had been gained for the people of south Asia where they could practice their rituals under the defined parameters of Islam. Like India, Pakistan was not a secular state it was gained on the basis of an Islamic ideology. Those who were the companions of the Jinnah in the struggle movement unfortunately, right after the independence they were engaged in personal political gamesmanship. However, selfless, sophisticated and national leaders were few in number. The steering of country fate came into the hands of less experienced person. Bureaucrats and politicians were

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<sup>3</sup> Babri Mazhar. “*Bureaucracy and Politics*, P.27.

<sup>4</sup> Babri Mazhar. “*Bureaucracy and Politics*, P.27.

<sup>5</sup> Chowdhury Mustafa, *Pakistan, Its Politics and Bureaucracy* (Stosius: Incorporated/Advent Books Division), 1988. P. 229.

busy in fighting for their personal gains. Although their main prerogative should be country interest. However, they preferred their own advantages.

After the sad demise of Jinnah, Liaqat Ali Khan was the only loyal lieutenant. Pre-partition he was the secretary of the Muslim League. The office of prime minister was given to Liaqat by Quaid himself. Liaqat could not maintain the integrity of the office that is why the governor general gained more attention and misused his powers. Liaqat tried his best to restore the authority of his office. Khawaja Nazim-ud-Din was appointed as a leading member of Dacca commercial elite. Previously he was the chief minister of East Pakistan. This was the good gesture of giving honors to Bengali community. Actually, Liaqat wanted to appoint a docile person on the seat of governor and Khawaja was the best suitable candidate for this<sup>6</sup>.

Although, Khawaja became the governor after the death of Jinnah but he could not manage the post of the Governorship. His caliber was not equal as Jinnah had prestige and authority as a head of state. Some of the powers of governor general were alleviated. Clash was started over the division of powers among president of Assembly and prime minister and speaker of the assembly after the departure of Quaid. According of Keith Callard:

“This dispersal of the power of the Quaid -i-Azam ... was to have important consequences in 1953 and 1954.”

Moreover, country was failed to get constitution at proper time. After the death of the Liaqat Ali Khan in 1951, Khawaja assumed the office of prime minister while Chaudhury Muhammad Ali became the finance minister of Pakistan. Nazimuddin was a man of piety and integrity he was unable to impose his decisions in the cabinet. Contrary to this he had great experience in public administration and politics. Unfortunately, he failed to settle down the issue of language which arose in the eastern side of the Pakistan and also the Ahamdiyya riots in Punjab worse the situation.

Governor blamed the Khawaja and his cabinet: he said that I had reached to conclusion they were inadequate to resolve the problems of the Pakistan which were being faced by the country. So, it is responsibility of my office to ask the former cabinet leave the office in order to form a new cabinet.<sup>7</sup>

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<sup>6</sup> Chowdhury Mustafa, *Pakistan, Its Politics and Bureaucracy*, p. 229.

<sup>7</sup> Chowdhury Mustafa, *Pakistan, Its Politics and Bureaucracy*, P. 260.

Muhammad Ali Bogra was invited from United States. He was Pakistan ambassador at that time. He assumed the office of prime minister and retained six members of the cabinet. He neither belonged any political party nor he was the Member of Parliament. He was the outcome of the personal liking of governor general. From this act of nepotism governor and later on president emerged as the most powerful person in the state. Despite having majority in the assembly, not even a single party could challenge the authority of governor. At the time of creation, there were two major parties in the house one was Muslim League which had 60 seats and other one was congress which held 11 seats. The constituent assembly was mainly comprised on Lawyers, landlords, businessman and the liberal professions.

In September 1954 the constituent assembly passed a resolution that Governor General would act under the direction of assembly and members of the cabinet were selected from the membership of legislature. When this news of powers curtailment reached to governor's office. He dissolved the assembly.<sup>8</sup> Proclaims were as follows:

“The following political break down in the country is paving way for further political crisis. So, having these concerns in the minds the assembly is hereby dissolved. He therefore declared state of emergency in the Pakistan. A new government of Muhammad Ali Bogra was formed. Maulvi Tamizuddin challenged this act of governor illegal and filed a case against him. The Sindh high court gave verdict in the favor of speaker and federal court considered this act as a legal step. These dark chapters became the major reasons for the downfall of the state. Governor general was all in all in the state”.<sup>9</sup>

Liaquat wanted to make the post of governor ceremonial and non- political. However, circumstances took such turns that things got out of his control. Although, Liaquat Ali Khan had no problem with Nazim-ud-din. Therefore, leaders of provincial Muslim League trying to exploit the political system for their vested interest and wanted to mold political opportunities for their own fortune. It was difficult for Liaquat Ali Khan to fight against those who were chasing personal interests. Instead of working on the constitution these people gave nourishment to their rivalries. In the assembly time was

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<sup>9</sup> Chowdhury Mustafa, *Pakistan, Its Politics and Bureaucracy*, P.265.

wasted by discussing the personal grudge. On the other hands, Pakistan was in dire need of constitution which would build a new road map for the state.

### **Induction of Ghulam Muhammad in Parliamentary Affairs**

It is the tragedy of Pakistan political history through most of the time of its existence people into the power circle through back doors channel and unfair means. These people due to lack of legitimacy did not promote democratic culture in the country. They were neither part of any political party nor they joined any popular movement to sit in the electoral office. By entering into arena of politics they tried to legitimize their rule. All of the stuff today which, country is facing like dependence of judiciary and involvement of institutions is the outcome of the past which was practiced by the rulers in the early phase of independence. Ghulam Muhammad was the one person who entered in the politics through democratic and undemocratic means. He succeeded to most powerful post governor general without any electoral effort. He was an elected member of first constituent assembly but due to him it faced a great damage in the history. During his four years stay in the office the controversies and intrigues were on the peak level. According to Ayesha Jalal's words

“A most striking reality about the existence of Pakistan as nation state is that it failed to satisfy the interests of the very Muslims who were supposed to have demanded its creation.”<sup>10</sup>

### **Personal Life Account of Malik Ghulam Muhammad**

He belonged to a middle -class family. He was born in 1895 near Mochi gate Lahore. He got his early education in Lahore till intermediate than he moved towards Ali Garh for higher education. After graduation he became the professor of economics. Later on, he qualified the competitive exams and allocated into Audit and accounts service of Pakistan. Malik Ghulam Muhammad was the person who paved way for military personnel to enter in the arena of politics. He always consulted to Ayub Khan in the governmental affairs. When Ayub became the C-in-C he further stepped in the politics his domain was increased. He played openly in the ground and that was placed by the Ghulam Muhammad. As Safdar Mahmood wrote:

“It was first time when lion was tasting the flavor of blood later on when he got addicted of that blood. He didn't care about the political apparatus that whatever the cost is he wanted to taste such thing.”<sup>11</sup>

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<sup>10</sup> Ayesha Jalal, *The sole spokesman*. (Cambridge: Cambridge University Press), 1985. P.37.

According to Ayyub Khan he stated that most of the time, it was offered by Ghulam Muhammad to take over the fortune of the country into his own hands but, he kept in mind that democratic norms should be essential element for the prosperity of state. A game was played for Ghulam Muhammad, after the death of Liaquat Ali Khan the post of premier was vacant Nazzimuddin assumed that post at the same time according to Mushtaq Ahmed in his book government and politics in Pakistan he states that; “this was against the parliamentary norms. On the other hands, Abdul Rab Nishtar was the eligible and deserving person for the post of Governor but he was appointed as the Punjab governor. He could not attend the funeral prayer of former prime Minister Liaquat Ali Khan because he was advised to take the control of Lahore due to Indian aggression. Other side game was played against him. Ghulam Muhammad himself acknowledged that Nazzimuddin made him governor general”.<sup>12</sup>

### **Dismissal of Khawaja Nazzimuddin**

Dark chapters of the history are the evident about the misfortune of the country. The politicians who played with country like a game. People who did their best during freedom movement. They aimed at that an independent country would resolve their miseries. Unfortunately, after the rise of the independence people got into the clouds of the troubles. Political leadership involved in personal interest those who were pioneer of freedom movement later on became the enemies of the one another<sup>13</sup>. Those who had burden of state forgot their defined role that how to act for the welfare of the nascent states. Countries which got freedom with Pakistan or after some period of time became more progressive in every field of life but Pakistan's pace was same as it started from the day of its inception. Now after completion of 75 years nothing has been done by the state of Pakistan. Initial formative years were very crucial in the history of Pakistan this state had to build everything from the bottom. But, internal problems paved way

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<sup>11</sup> Safdar Mahmood, *Pakistan political Roots & Development 1947-1999* (Karachi: Oxford university press:)) 2003. PP. 60-80.

<sup>12</sup> Mansoor Max, and Akbar Kundi. “*Legitimate Force Is the Thread That Runs through the Action of Political System, Giving It Its Special Quality and Importance and Its Coherence.*” *Journal of Political Studies* 23, no. 2 (2016): P.356. [http://pu.edu.pk/images/journal/pols/pdf-files/Mansoor%20-%2001\\_v23\\_2\\_16.pdf](http://pu.edu.pk/images/journal/pols/pdf-files/Mansoor%20-%2001_v23_2_16.pdf).

<sup>13</sup> Mansoor Max, and Akbar Kundi. “*Legitimate Force Is the Thread That Runs through the Action of Political System, Giving It Its Special Quality and Importance and Its Coherence.*”, p. 357.

for the backwardness of the country. Soon after the independence the priorities were changed completely, ethnicity played its role well in the destruction of the institutions. Nazimuddin was Bengali and Ghulam Muhammad was Punjabi. There was huge personality contrast between them. Nazimuddin was from noble family he was also a gentle and well know person. He was companion of Jinnah during Simla conference. He had a long and successful career before independence in the Bengal. Fredrick Bourne, governor of East Bengal after independence who catch this opportunity to work with Nazimuddin. He admired his qualities and considered him an experienced person. Ch. Muhammad Ali knew that Nazimuddin was good person and abled person for governorship. Chief justice Munir considered him an angel without politicians smile who always knew his constitutional limits. Contrary to this, the head of department of political science, Dhaka university; he considered him a person who was completely incapable to exercise his powers.

In the past, the bureaucracy had relied on Liaquat to advance its objectives. Now the Ghulam Muhammad himself from the same cadre. A man whose physical limitations forced him to fight for his life. He had been unable to actively participate in the independence movement due to health issues, and only lately had a stroke left him severely crippled. It's conceivable that his physical issues played a role in the east and west wings of the country accepting him and Nazimuddin into their separate administrations. Politicians in the Punjab accepted Nazimuddin because they did not view him as an aggressive politician or a powerful leader, while Bengalis believed that Ghulam Mohammad's physical limitations would make him only useful as a figurehead.<sup>14</sup>

Only Chaudhri Mohammad Ali, who was at the time Pakistan's Secretary-General and was in control of the Pakistan Civil Service, was Ghulam Mohammad's only significant internal adversary. However, even though Ali was actively working to increase the bureaucracy's influence over how the government was managed, other people didn't think he had any personal political aspirations<sup>15</sup>. However, Ghulam Muhammad demonstrated an exceptional skill in assembling a group of senior government employees and military officers, and as a result, he became the leader of the bureaucratic faction. Iskander Mirza, who eventually became the first President of the Islamic Republic of Pakistan, gave him competent assistance. During his years of duty in British India, Mirza the first Indian Army officer to graduate from Sandhurst

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<sup>14</sup> Allen McGrath. *The Destruction of Pakistan's Democracy*. ( USA: Oxford University Press ) , 1996. P.7.

<sup>15</sup> Allen McGrath. *The Destruction of Pakistan's Democracy*, p.7.



had chosen the civil side of politics. Despite being elected on the Muslim League ticket, he served in the Constituent Assembly. Fifteen months of long tussle between Nazimuddin and Ghulam Muhammad ended with the removal of Khawaja Nazimuddin. He was removed that the law and order situation was worsening due to inefficiency of prime minister there was also Ahamdiya movement started in the province of the Punjab. He did not pay any attention to consider it as a provincial matter. Due to this martial law was opposed in the Lahore.<sup>16</sup>

### **Muhammad Ali Bogra as a new Premier**

Neither he was the part of any political party nor he had any affiliation with parliament. Muhammad Ali Bogra was called to Pakistan to serve as prime minister. According to Zulfiaqar Ali Maluka he stated in his book “The Myth of constitutionalism”

“A bureaucrat hired another Bureaucrats for the post of the Premiership which was completely against the parliamentary practice but, he went against the democratic norms and gave him the bridle of Pakistan. It was up to him wherever he led the country.”<sup>17</sup>

According to him all the rotten eggs were placed into one line. All the unpleasant movements occurred same time in the history of Pakistan. The reason behind the selection of bogra was his Bengali background on other hands. The governor wanted to show that there was still hegemony of Bengali at the centre. On the other hands, he was selected just because of pro American sympathies because he was serving in Washington Dc<sup>18</sup>. In reality, he was successful right away in getting the US to provide wheat help. When this arrived in April 1954, the Muslim League had been soundly defeated in the East Bengal elections and its longtime rival Fazlul Haq was serving as a minister. As a result, Army Headquarters turned to military support. The resulting labour unrest and United Front Government's declaration of a day against the US-Pakistan Military Pact prompted Ghulam Muhammad to respond as was planned. Mirza was now given the authority to govern East Bengal on his own as governor. This development damaged Bogra's authority, especially as he had controversially consented to Bengali's classification as a national language in an effort to strengthen the Muslim League's standing

<sup>16</sup> Daily Dawn | Publishing. “*Special Report: Parliament in Chaos 1951-1958.*” DAWN.COM, August 25, 2017. <https://www.dawn.com/news/1353861>. Retrieved on 5July,2023.

<sup>17</sup> Zulfikar Khalid Maluka, *The Myth of Constitutionalism in Pakistan* (Karachi: New York, 1995), P. 118.

<sup>18</sup> Zulfikar Khalid Maluka, *The Myth of Constitutionalism in Pakistan*, p.118.

before the elections. In reality, the Prime Minister's reputation had already deteriorated following his August 1953 meeting with Nehru to discuss the Kashmir issue. But there was still a chance for him to break out of the noose that was closing around his neck during the last stages of the constitution-making process. Bogra agreed to the changes proposed by Nazimuddin, Fazlur Rahman, and other East Bengali leaders that, if implemented, would have removed the Governor-General's authority to dissolve the government and rendered the use of PRODA procedures against politician null and void. However, Punjabi lawmakers supported the Governor-General who, on October 24, 1954, after speaking with the Chief Justice of the Supreme Court.<sup>19</sup>

Muhammad Ali Bogra received tremendous credit for using the Bogra method to solve a dilemma that was in danger of dividing Pakistan in two. Except for the dissenting voices of Fazlul Haq and Mian Iftikhar-ud-Din, who both called for greater provincial autonomy, it was a unique attempt at interest aggregation on the part of all provincial or regional groups within the official of Pakistan Muslim League (PML) leadership. The Constituent Assembly of Pakistan (CAP), adopted it without much opposition. It was based on the parity principle. According to Pakistan Observer, the formula was the result of considerations made by PML leaders in East Pakistan who were currently in power, including Nurul Amin, who believed that anything less than parity would guarantee the Muslim League's demise in the province.<sup>20</sup>

It was an important for the provinces and states of West Pakistan to band together in order to make the parity between the two divisions conceivable. The states and provinces of West Pakistan were reorganized to prevent the fissiparous tendencies that were developing between the provinces, to establish parity between the eastern and western wings, and for a lesser-known reason: the worry that East Pakistan politicians would play off one Province against another to secure power for themselves<sup>21</sup>. This was done while ignoring the threat of Punjabi dominance within West Pakistan. Choudhury Muhammad Ali made the suggestion of one unit for West Pakistan to the panel on electricity distribution of the ML parliamentary party.<sup>22</sup>

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<sup>19</sup> Ian Talbot, *Pakistan: A Modern History* (London: Hurst), 2012. P.80.

<sup>20</sup> Ian Talbot, *Pakistan: A Modern History*, p.80.

<sup>21</sup> Ian Talbot, *Modern History*, (London: Hust) , 2012. P.80

<sup>22</sup> Rizwan ullah Kokab, *Constitution Making in Pakistan and East Bengal's demand for Provincial Autonomy (1947-58)*, Pakistan vision, vol. No.12 No.2 p. 171.

Here are some of the prominent points of the Bogra formula;

1. Government at the central legislature would comprise of the two houses.
2. 10 members would be taken for upper house from East Pakistan and 40 will be carried from East Pakistan. 165 members would be taken from East Pakistan out of 300.
3. The president would have authority to dissolve the house anytime if both houses could not make any settlement<sup>23</sup>

There was bill presented in the assembly regarding the curtailment of the powers of Governor. When this news knocked the doors of Governor. He did not hesitate to dissolve the assembly he frequently dismissed everything to protect him.

### **Ahmadiya Riot and Dissolution of Constituent Assembly in 1954**

An investigation commission was established after the Ahmadi riots ended in March 1953 and the Army had returned to its barracks in May. It was presided over by Mohammad Munir, who was also the Chief Justice of the Punjab High Court at the time, and included M. R. Kayani. Many of Ghulam Mohammad's beliefs that bureaucracy is superior to the legislative branch of government were shared by Munir. He published the Munir Report following the investigation's conclusion, which backed Ghulam Mohammad and his Punjab bureaucracy by criticizing the way politicians like Daultana and Nazimuddin handled the riots.

“Additionally, Munir pressed the ulema and religious political figures who testified during the committee hearings to define a Muslim. The findings, which were made public in 1954, highlighted the differences in the responses and were used to cast doubt on the value of the participation of the Islamic leaders in the constitution-making process. The report's intended conclusion was evident to all”.<sup>24</sup>

The Munir commission hearings were a sign of a change in the constitutional landscape brought on by the Ahmadi riots. The proponents of a secular constitution were suddenly the loudest voices in constitutional discussion. Mohammad Ali Bogra, the new prime minister, and Noon and Chaudhry Khaliquzzaman, the new chief ministers of Punjab and East Bengal.<sup>25</sup> The Basic Principle Committee's Report debates were finished on September 21st, 1954, and the CAP adjourned. On October 27, when the Drafting

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<sup>23</sup> Rafi Ullah Shehab, *The Political History of Pakistan*. Dost Associates, 1995. P.127.

<sup>24</sup> McGrath, *The Destruction of Pakistan's Democracy*, P. 227.

<sup>25</sup> McGrath, *The Destruction of Pakistan's Democracy*, p.228.

Committee was scheduled to present its drafting of the Constitution, it was to reconvene. Ghulam Mohammed, however, had other thoughts. He was not ready to accept the CAP's reduction of his authority. He specifically objected to three bills: the first was the one that the CAP used to give itself the authority to "make constitutional provisions for the entire federation of Pakistan" (approved on 2 August 1954).

"The second amendment, which was passed on September 21 and declared the Council of Ministers to be the state's sovereign executive, obligated the Governor-General to follow the Prime Minister's advice, and repealed the despised Public and Representative Offices (Disqualification) Act of 1949 by stating that all cases brought under it would be deemed to have been abandoned. Ghulam Mohammed called Sir Edward Snelson, Secretary of the Law Department, as soon as he learned that the CAP was daring to reduce his authority and 'prohibited him from bringing the new constitution on the statute book.'"<sup>26</sup> Bogra was visiting the United States for business when this took place. Ghulam Mohammed considered planning a second coup, possibly inspired by Ayub Khan and Iskander Mirza. Bogra was given the order to end his visit and head back to Karachi right away. The Prime Minister obediently responded to the call, but when he learned that the other party intended to dissolve the CAP, he became uncooperative<sup>27</sup>.

On the morning of 24 October, 1954 Ghulam Muhammad Gave surprise to the nation by dissolving the constituent assembly. The proclamation was as follow:

"The Governor-General considered the political crisis with which the country was facing, as with deep regret come to conclusion that the constitutional machinery had broken down. He, therefore, decided to declare a state of emergency throughout Pakistan. The Constituent Assembly as at present constituted had lost the confidence of the people and could no longer function. The ultimate authority vests in the people who will decide all issues including constitutional issues through their representa-

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<sup>26</sup> Riaz Ahmad, "Pakistan's First Constituent Assembly's Efforts for the Making of Constitution 1947-1954." *Pakistan Journal of History & Culture* Vol.XXIII/1, (2002). [http://www.nihcr.edu.pk/Latest\\_English\\_Journal/P%5Dhc%2023](http://www.nihcr.edu.pk/Latest_English_Journal/P%5Dhc%2023). P.8.

<sup>27</sup> Riaz Ahmad, "Pakistan's First Constituent Assembly's Efforts for the Making of Constitution 1947-1954." p.8.

tives to be elected afresh. Elections would be held as early as possible.”<sup>28</sup>

Ghulam Mohammed's actions were to put it mildly unparalleled. It was unclear how the constitutional system could have malfunctioned when the CAP was nearly finished with its work on the Constitution. In actuality, it was only a matter of time before the CAP collapsed. It would have disintegrated on its own once its constitutional duties were completed. Thus, Ghulam Mohammed's behaviour was nothing more than a clumsy effort to uphold his own control. He had also been willing to sacrifice national interests for this. Given that Prime Minister Bogra had even set the promulgation of the constitution for December 1954, Ghulam Mohammed's behavior made all the more unacceptable.<sup>29</sup>

### **Maulvi Tamizuddin Challenged the Act of Governor General**

The act of governor general was challenged by the speaker of the Assembly. He considered this act of governor was illegal and it was against the federation. For his personal needs he dissolved the whole assembly. He filed a case in the Sindh high court. He gave his statement regarding the proclamation of October 24, 1954:

‘The proclamation dated October 24, 1954, was ipso facto, a conspiracy against Pakistan. The conspiracy so hatched aimed at converting Pakistan into Totalitarian state to be governed by choosing few. Maulvi Tamizuddin Khan fully realized the gravity of the situation.’<sup>30</sup>

He sought the issuance of a writ in the nature of a mandamus to prevent the Federation of Pakistan and the members of the reconstituted Council of Ministers from implementing the proclamation of October 24, 1954, from interfering with or obstructing him in the performance of his duties and functions as President of the Constituent Assembly, and also for a writ of quo warranto by which he questioned the validity of the proclamation.

Such as Chaudhri Muhammad Ali, Major-General Iskander Mirza, M.A.H. Ispahani, Dr. Khan Sahib, General Muhammad Ayub Khan, and four others as being unlawful, extra vires, lacking any legitimate authority, inoperative, and void on the reasons listed

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<sup>28</sup> Riaz Ahmad, “Pakistan’s First Constituent Assembly’s Efforts.” P.10.

<sup>29</sup> Riaz Ahmad, “Pakistan’s First Constituent Assembly’s Efforts. p.15.

<sup>30</sup> Syed Sami Ahmad. *The Judiciary of Pakistan and Its Role in Political Crises*. (Karachi: Royal Book Company), 2012.pp 9-15.

in paragraph of the petition. However, it's crucial to note that General Muhammad Ayub Khan held the position of Defence Minister in the first Cabinet of usurpers. The Sindh court restored the Assembly of Maulvi Tamizuddin.

### **Federal Court and Tactics of Ghulam Muhammad**

The Chief Court of Sindh's historic decision in Tamizuddin Khan's favour was a major triumph for the country. The issue was eventually heard by the Federal Court of Pakistan after passing through the Chief Court of Sindh. Ghulam Muhammad was ready for such situation in every way. He was aware that he couldn't reach the Chief Court of Sindh. He was aware that he would be powerless to sway the court's judges. As a result, he was completely satisfied with the Federal Court's makeup. Chief Justice of the Pakistani Federal Court Justice Munir was previously Chief Justice of the Lahore High Court. Justice Munir was his own man. Mr. A.S.M. Akram, an East Pakistan native, was the Federal Court's most senior judge. After the first Chief Justice of the Federal Court of Pakistan, G. Abdur Rasheed, retired, it was appropriate for someone else to assume that position. Justice Akram was forced into giving up his seniority advantage in favour of Justice Munir. Under the direct pressure of Ghulam Muhammad, everything was completed. Justice Akram agreed to forfeit his seniority rights in a letter to the governor general. The goal was attained in the desired manner.<sup>31</sup>

### **Emergence of Doctrine of Necessity and Strangle of Democracy**

A common law notion known as state or civil necessity justifies government behavior that might be prohibited during a public emergency. A weakly applied threshold of necessity makes it feasible to justify significant abuses of constitutional rights and changes to the governmental structure, why courts must strictly limit this common law defence. The concept of necessity fills the significant gap between what the law permits the government to do and what the government actually does in the face of an emergency. Where emergency state action is performed in accordance with a specific statutory or constitution. It is irrelevant. Instead, it is only pertinent in cases where an injured person can establish beyond a reasonable doubt that the government has broken the law.<sup>32</sup> Even though the theory is rarely used, its judicial application is of utmost importance. It frequently pairs a judge who appears to have little power against a chief executive who is fervently devoted to engaging in illegal behaviour in order to preserve

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<sup>31</sup> Riaz Ahmad, *The Judiciary of Pakistan*, P.15.

<sup>32</sup> Riaz Ahmad, *The Judiciary of Pakistan*, P.15.

the state. When used properly and selectively, the idea represents a defence of the rule of law. But the rule of law is only upheld in the most obvious ways when the theory is so broadly implemented that it gives a revolutionary administration absolute power to do as it pleases. The doctrine's latter application deceitfully converts unbridled power into legitimate authority.<sup>33</sup> The idea that the legislature will hinder efforts to alleviate an emergency by either rejecting or limiting, the scope of emergency measures is the real driving force behind the theft of legislative authority. Usurpation on these grounds is unjustifiable from a theoretical and practical perspective. A fundamental principle of governance that establishes the fundamental power relations in a state is society's delegation of legislative power. A new form of government with a completely different political power structure results when one branch of government compromises this distribution. Any takeover of legislative power by the executive branch or court approval of such a usurpation cannot be considered legal within the current political and constitutional framework. The executive or the judiciary are not authorized to decide what the other branch of government should do in an emergency. The Federal High Court ruled in Reference by His Excellency the Governor General (under Section 213 of the Government of India Act, 1935) that the Governor-General of Pakistan could act in a legislative capacity under the doctrine of state necessity even though he was not authorized to do so by the terms of the Government of India Act of 1935 and the Indian Independence Act of 1947<sup>34</sup>.

The court determined that because the Constituent Assembly had been constitutionally dissolved by the Governor-General and a large portion of its prior legislation had previously been found to be unconstitutional, the governor general had the power to enact any measures necessary to ensure the assembly's functioning.<sup>35</sup> However, this judgement favored the governor but it never had been favored the Pakistan's because this was for the one-man satisfaction. This was the judicial coup which was being committed by the hands of Justice Munir. Justice A.R Cornelius was not satisfied with this judgement of the court. As it mentioned in Hamid's khan book; "It was remarks of the

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<sup>33</sup> Mark M, Stavsky, "The Doctrine of State Necessity in Pakistan." *Cornell International Law Journal*, 1983. <https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article>. PP. 349-355.

<sup>34</sup> Mark M, Stavsky, "The Doctrine of State Necessity in Pakistan, p. 355.

<sup>35</sup> Mark M, Stavsky, "The Doctrine of State Necessity in Pakistan." P. 355.

Justice A.R Cornelius that the case of Tamizuddin was constitutional but we did wrong with judicial setup of Pakistan. As we take a glance of history, it was completely unconstitutional measure to legitimize the governor general through unfair means”.<sup>36</sup>

**Conclusion:**

Emergence of Pakistan brought many hurdles with it. The leadership which was trying their best to achieve an independent state. After getting the state their prerogatives were totally different as they had in the pre-partition phase. It was generally considered that Pakistan was remained on the screen when Jinnah was alive. After his departure, the political arena of the country completely changed. The leadership was divided into factions and the authoritative behavior of Pakistan Muslims League was also damaging the political fabric of the country. Pakistan was searching for stability under the shadow of unlimited powers of governor general. Undoubtedly, Jinnah had the stature to use this power for the welfare of the state. However, the leadership behind him, did not have caliber to use these powers in an appropriate way. The famous saying of Lord Acton fits to Governor general, He said that “ power tends to corrupt and an absolute power corrupts absolutely”. Same happened to Pakistan in the early phases of constitutional and political development. The levers of powers in a single hand had damaged the political structure of the state. It was an era of political development. Unfortunately, Pakistan could not make its own constitution till 1956, due political unrest in the state. Political parties are considered the agents of democracy but these parties remained busy in their personal blame game. These unpleasant episodes constructed a smooth way for other non-democratic forces to plunge into the parliamentary affairs of country and resultant Pakistan came under the shades of martial law in October 1958. Still, after passing of seventy years of independence, political parties are repeating same practices which clearly indicates that we don't learn from the history. Instead of running on the past footprints, political parties should change their course of action in order to release country from the arrest of political instability.

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<sup>36</sup> Hamid Khan, *Constitutional and Political History of Pakistan*. Karachi, Pakistan: Oxford University Press, 2019. P. 156.