

RADCLIFF'S AWARD: AN ETHICAL IMBALANCE

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ABSTRACT

Since the establishment of the first Muslim empire in India in 1206, the people of India were living together across the country without any social and religious discrimination and this episode of unity continued till the birth of Pakistan. Appointing Admiral Lord Mountbatten as Viceroy of India by the British Government to handle the matter of partition and on the other hand, Sir Cyril Radcliffe, the chairman of both the boundary commissions left no stone unturned to damage the Muslims of Sub-Continent. By giving many Muslim majority areas to India on the basis of other factors and finally giving Gurdaspur to India where Muslim's constituted 52.16% was the last nail in the coffin of newly born state as bliss to create a linkage between Muslim majority areas of Jammu and Kashmir which is a worst example of injustice of the Radcliffe award. Using the analytical method the prime concentration of this exploration was to plug this missing segment, which would expand the learning of partition process.

Keywords: Radcliff Award, Injustice, Mass Migration.

INTRODUCTION

According to an estimate of the Government of Pakistan, approximately, 6,500,000 refugees came into Pakistan. Of these, 5,200,000 came from the East Punjab and the neighboring states while 130,000 came from Delhi province. Nearly, 5,500,000 Hindus and Sikhs left West Pakistan (Dar, 2003). It is also claimed that

“A total of 7.25 million Muslim refugees came from India between 1947 and 1951” (Talbot, 2004).

Nearly, 5.5 million displaced persons inhabited in West Punjab while about 1.5 million moved towards Sindh. It was the province of Punjab that was gone through maximum violence “*three-quarters of a million killed*”, and it had been estimated that more than ten million Punjabis were uprooted from their homelands (Joya, 2014) and at least 75,000 women were raped (Ishtiaq, 2002). The representative of Pakistan also stated that “*about 10,000,000 people displaced from their home constitute a vast mass of human suffering*” (Talbot, 1949). It is also blame that it causing more than 15 million refugees and hundreds of thousands of deaths (Kaufmann, 1998). The most important reason behind the mass migration is the Boundary Commission, later on called the Radcliffe Award. In this award, we shall come to know that how the commission committed excesses with the Muslims majority areas

and how they were given to India and no doubt the award had hit the Muslims more than any other and they had already sacrificed more than they were expected to.

RESULT AND DISCUSSION

With the passing of the Indian Independence Act, 1947, Pakistan and India were divided into two independence states. On July 4, 1947, this Act was presented in the House of Commons in the British where it was resolved that a boundary commission would determine the new boundaries (Indian Independence). Initially it was proposed that the task of demarcating the boundaries of the Punjab and Bengal should be given to the United Nations or the International Court of Justice. Jinnah supported the suggestion but Nehru opposed it on the grounds that it would involve undue delay (Campbell-Johnson, 1972). Mountbatten, who sought to placate the Congress, dropped the idea. Jinnah then proposed that three judges of the Judicial Committee of the Privy Council in Britain should be appointed as the members of the Boundary Commission. Mountbatten again rejected this proposal on the ground that the elderly judges would not be able to withstand the heat of the Indian summer (Hodson, 1985). But the Quaid-i-Azam's desire was to appoint three Law Lords from the United Kingdom for the boundary commissions as impartial members. But he was informed that the Law Lords could not face the scorching heat of summers as they were elderly persons. Later on, Lord Mountbatten convinced him to accept the appointment of an English lawyer, Sir Cyril Radcliffe, as the chairman of both the boundary commissions who would have the power to make the Viceroy letter to secretary of state of India¹. The two political parties Congress and the Muslim League recommended their nominees as the members of the two commissions. The Muslim League nominated Abu Saleh Mohammad Akram² and S.A. Rahman³ for the Bengal Boundary Commission and Din Mohammad⁴ and Mohammad Munir⁵ for the Punjab Boundary Commission. While the Congress nominated C. Biswas⁶ and B.K. Mukherji⁷ for the Bengal Boundary Commission and Teja Singh⁸ and Mehr Chand Mahajan⁹ for the Punjab Boundary Commission. Thus, the two Boundary Commissions were finalized on June 30. The Boundary Commission was instructed to demarcate boundaries of the two parts of the Punjab and Bengal on the basis of Muslim and Non-Muslim majority population. However, it was also to take into account "*other factors*", while making a decision. Interestingly, the term "*other factors*" was kept vague and the Commission had every right to have its own interpretation of the term.

The Punjab may be considered as consisting of two wings, a western along the Indus and eastern between the five Rivers Jhelum, Chenab, Ravi, Beas and Sutlej. The western wing and all but a fringe of the eastern along Sutlej were not in dispute, the battle range over the central Doabs and especially over the easternmost, the upper Bari Doab between Beas and Ravi. This contain three of the province, the fifth largest and one of the finest cities of India; Amritsar with a 46.5% Muslim area and Gurdaspur a very marginal district, culturally very strongly Muslim with a majority of 51.4%.¹⁰

The division of the Punjab and Bengal was neither an easy task for the Commission nor was it a matter of a few days. From the very beginning, the Commission faced a lot of difficulties while calculating the gravity of matter. The Commission soon fall prey to the imminent controversies over the partition of the Punjab and Bengal. The demarcation in each province was surely going to affect densely populated areas of both the communities. Resultantly, it affected the millions of people as massive migrations occurred soon after the partition of Punjab and Bengal. Later on, many Muslims majority areas that were contiguous to Pakistan were given to India with the mutual cooperation of the Boundary Commission. It was the total collapse of justice as the Muslims majority areas were given to India with

partiality. The Hindus and Sikhs, taking the advantage of political anarchy, together fished in troubled waters. On the other hand the only solution which could mitigate the plight of the Sikh was the Boundary Commission would so define the boundary as the maximum portion of the Sikh should be included within one conglomerate whole without doing damage to the balance of Muslims and Non-Muslims areas. They must assure to the Sikh that they did understand their difficulties¹⁰.

There is a unanimous consensus that decision of the Lord Mountbatten to promote the transfer of power from June, 1948 to August 15, 1947 was very unwise. He deliberately refused to give time in the making of Pakistan and asked the establishment of the Muslim League to manage its affairs itself in a proper way and Boundary Commission directed to finish his work in two months¹¹. The inevitable result was that provincial governments of both the Eastern Punjab and Western Punjab could not take proper time to organize themselves. East Punjab Government's situation was comparatively worse because Hindus and Sikhs had refused to set up an alternative capital in the Eastern Punjab, the later feared of weakening their flimsy claims in Lahore. If the scheduled date of June, 1948 had been implemented, both the governments of East and West Punjab would have been in a better position to maintain law and order in their own administrative units. If the division had been made in line with June, 1948, the today's geography of the subcontinent would have been telling an entirely different story.

While discussing about the issue of Kashmir, according to the 1941 census, the total population of the state was about 4 million with 77% Muslims. The Muslims enjoyed majority in every province of the state. Of the total population, Muslims constituted 61 percent in Jammu province; 93% in the Kashmir province; and nearly 100% in the Gilgit. Like Bengal, the partition of Punjab was completely an injustice. The Radcliffe Award entitled a number of Muslim majority contiguous areas to India, but it did not entitle even a single Non-Muslim majority area to Pakistan. The total population of Gurdaspur was 328,819 where Muslims constituted 52.16%, while the total population of Tehsil Batala was 830,053 where Muslims constituted 55.07%, were also made part of India along with Pathankot Tehsil to create a linkage between India and the Muslim majority state of Jammu and Kashmir. If these areas had not been given to India, the Kashmir issue could not have erupted from the very beginning. At partition an invitation for accession has also been sent to the Kashmir to join the Indian Union, but, as it lies outside its boundaries, no special stress has been laid¹².

Mountbatten, in his program of transfer of power, had planned to let himself as a common governor. As a part of his sinister plan, he wanted to undo Pakistan at the very start. Quaid-i-Azam saw through the game, but he still agreed to Mountbatten's solution of having a common Governor General. He gave his consent to a truncated Pakistan, advancing the date of the transfer and possible delays in the Indian Army division but refused to fall into a common Governor, which was a key factor in Mountbatten's nefarious plans to dismantle Pakistan resulting in the early demise of Pakistan. With refer to the British Prime Minister announcement during the second reading of the Indian independence Bill about, Lord Mountbatten functioning as the first Governor-General of Indian domain with the consent and approval of Congress party¹³.

The Muslim League leadership reaction to the Awards was very severe. Sardar Abdur Rab Nishtar the then Communication Minister dubbed the Awards, which to him were "*extremely unfair and unjust to Pakistan*", as a "*parting kick by the British*". Ghazanfar Ali Khan called the Awards as "*disgusting and unfair*" and thought that the decision might "*not persuade Pakistan to remain in the Commonwealth*"¹⁴. I.I. Chundrigar also supported Ghazanfar's idea that the decision might take Pakistan out of the British Commonwealth. Sardar Shaukat Hayat termed the Awards as "*deliberate perversity of justice*" and "*last act of*

treachery of the British". He believed that the decision has clearly shown whose real friends the British are. To Begum Shah Nawaz "*British have gone back on their words*". According to M.A.H. Ispahani the Award was "*abominable*" as it violated "*fundamental and accepted principles of contiguous majority areas*". Mr. Victor Fisherman, a British speaker said that the massacre in India was viewed in Britain with as much horror as in India. The British he said should have created a peaceful situation before leaving India.

A total of some 13,600,000 people in the disputed area at least 7,84,000 or over 57 percent were Muslims and by parity of reasoning the Muslim might well claim the entire Punjab as a "*contiguous Muslim majority area*". To demarcate the boundaries of the two parts of the Punjab on the basis of ascertaining the contiguous majority areas of Muslims and Non Muslims. In doing so, it will also take into account other factors. It is felt difficult to feel that it is infact drawn on the principle of contiguous majority areas which Sir Cyril's report accepts as the fundamental basis. As the final limits were to be decided by Sir Cyril Radcliffe, although this arrangement has the obvious advantage of uniformity, it is not reflected on Sir Cyril to suggest that the imposition of this tremendous double burden on one man may have been in itself unwise¹⁵.

CONCLUSION

By 1947, the animosity between the Hindus and Muslims had grown to such an extent that the latter were not ready to yield before the former expect for the partition. Resultantly, the land of pure, Pakistan, appeared on the map of the world on August 14, 1947. Soon after the independence, the process of large-scale migration started. Along with numerous others factors of migration, there were three main factors behind the migration. First, it was the natural consequence of the partition of the sub-continent. Secondly, it was the Radcliffe award that was responsible for the world largest migration the history ever witnessed. Finally, the riots that surrounded the whole of the sub-continent contributed to the forced migration. There are numerous different terms with covering essences twirling around the academic, legitimate or well known utilization of the term "*genocide*", including "*ethnic purging*", "*mass executing*", "*holocaust*", "*monstrosity*", "*atrocities*" and "*wrongdoings against humankind*". From both the sides, many atrocities committed with the migrants. However, the Muslims migrants suffer greatly. It was the conspiracy hatched in minds of both the Hindu leaders and the British veterans to give a short time of just 72 days for the partition after the announcement of June 3, 1947. Secondly, it was the unjust Radcliffe award that was responsible for the migration. Finally, it was the flawed planning of the viceroy of Lord Mountbatten that contributed to the miseries of the migrants.

ENDNOTES

- 1 Letter from Viceroy to Secretary of State of India, L/P & J/7/12500, IOR.
- 2 Mr. Justice Abu Saleh Mohmed was acted as judge of Calcutta small causes court and Calcutta High Court variously from 10th April 1937, IOR L/I/1/770.
- 3 Mr. Justice Shaikh Abdulr Rehman, M.A (Punjab), B.A (Hons.) oxford, joined the Indian Civil Services 29th September 1928 and served in the Punjab as Assistant commissioner; judge, judge small cases court (April 1933); District and Session judge (December 1937), IOR L/I/1/770.
- 4 Mr. Justice Din Muhammad born 02 December, 1886; joined Punjab Judicial Department, 2nd October 1933; appointed judge Lahore High Court, 27th March 1934, recently acted as Chairman, Air Transport Licensing Board, New Delhi, IOR L/I/1/770.
- 5 Mr. Justice Muhammad Munir, born 3rd May 1895; joined Punjab Judicial Department, 3rd July 1937 as Assistant to the Advocate General, Punjab. Served on the Central Board of Revenue and as President,

- Income Tax appellate Tribunal before being appointed a judge of Lahore High Court on 28th September 1942, IOR L/I/1/770.
- 6 Mr. Justice Charu Chandra, C.I.E. appointed officiating Judge of the Calcutta High Court, 1st March 1937, confirmed 20th January, 1940, IOR L/I/1/770.
 - 7 Mr. Justice Bijan Kumar Mukherji, M.A, D.L. appointed senior Government Pleader 4th June 1935, judge of the Calcutta High court 3rd July 1939, IOR L/I/1/770.
 - 8 Mr. Justice Teja Singh Sardar, B.A, L.L.B, born 1st January 1889, joined the Punjab Civil Service, 8th July 1932 and appointed District and Session Judge; Judge of the Lahore High Court 27th September 1943. Granted title of the Sardar Bahadir, 11th May 1937, publications commentary on the Punjab pre-emption Act of 1913, IOR L/I/1/770.
 - 9 Mr. Justice Mehr Chand Mahajan, born 22nd December 1889, appointed judge Lahore High Court on, 27th September 1943, IOR L/I/1/770.
 - 10 Civil and Military Gazette, 16 July 1947, pp.5.
 - 11 Speech of Lord Mountbatten, Transfer of Power 17/1/13, Allegation against Lord Mountbatten regarding Sikh & Boundary Award, September 1947-1948 July, IOR, L/P & J/10/119 see also the cutting from Manchester Guardian dated 09 July, 1948, L/1/1/768, IOR.
 - 12 Civil & Military Gazette, 18 July 1947, pp.1.
 - 13 Civil and Military Gazette, 15 July 1947, pp.1.
 - 14 The Pakistan Times, 19 August 1947, pp. 1.
 - 15 Paper to be read before joint meeting of the East India Association and the overseas league at overseas House, Park Place, St, James's, S.W.1, on Tuesday, October 7, 1947. IOR L/I/1/778.

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