

Power Structure and Institutionalization in Pakistan, 1947-71



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Candidate's Declaration

I hereby declare that the thesis presently submitted bearing the title **“Power Structure and Institutionalization in Pakistan, 1947-71”** is the result of my own research and has not been submitted to any other institution for any other degree.

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Supervisor's Declaration

I hereby declare that the M.phil Candidate Muhammad Anwar has completed his thesis title **“Power Structure and Institutionalization in Pakistan, 1947-71”** under my supervision. I recommend it for the submission in candidacy for the degree of Master of Philosophy in History.

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To

Dedicated souls

Who

resist the power exertion

according to their capacity

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Introduction:

Pakistan was achieved on 14th of August 1947. After its creation, the higher authorities favored parliamentary form of government for Pakistan. The Indian Independence Act 1947 assigned the task of supreme authority to the Constituent Assembly i.e. legislature. These aforementioned initial developments at the time of creation of Pakistan signify the institutionalization of democracy and the strengthened representative institutions.

This research deals with the ‘power structure and institutionalization in Pakistan, 1947- 71’. In this research, these two tasks i.e. institutionalization of democracy and the strength of the representative institutions need to be analyzed. This researcher tries to know about the idea of institutionalization of democracy, the democratic processes and the status of the representative institutions in Pakistan since 1947-71.

The representative institutions have direct relation with the institutionalization of democracy. The representative institutions are the strength of the institutionalization of democracy. The efficacious representative institutions would foster the democracy and vice versa. The research would examine the link between the structural discontinuity and the weak representative institutions.

To know the strength of the representative institutions inside the state structure of Pakistan, it is to be compared with the other institutions i.e. non-representative institutions. For this purpose the research would go through the institutions of military, judiciary, bureaucracy and their simultaneous relation with the representative institutions.

While comparing the representative institutions with the non-representative institutions, the research focuses the imbalance persisting among these institutions. The comparison would be held on the basis of institutionalization of institutions and the role of power elites in the power structure of state machinery. To put it into other words, it is stated that the imbalance found inside the representative and non-representative institutions is systematic and strategic. As a result of this, the representative institutions are seen in the lower ebb inside state machinery. Moreover, the researcher tries to know that how does the inefficacy of the representative institutions impede the institutionalization of democracy?

These institutions, whether representative or unrepresentative, are hierarchical in nature. The apex of these institutions is occupied by the power elites. These power elites of various institutions form power structure. This power structure, which is comprised of power elites of various institutions, has affected the institutions and institutionalization of democracy. The power elites of the non-representative institutions, in general, form the power structure of Pakistan. But the power elites of the representative institutions may become the part of that power structure. Anyway, these power elites having same interests and material gains develop solid and compact relations to succeed.

Historically, in Pakistan since 1947-71, the power elites of the non-representative institutions i.e. Military and bureaucracy have affected the strength of the representative institutions and their institutionalization. To substantiate this, the military in coordination with bureaucracy hinders the institutionalization of democracy and the judiciary gives its justification. As a result of these manipulations, the democratic nature of state structure was transformed to authoritarianism and then to pure military dictatorship, in the period of 1947-71.

The research also deals with the arbitrariness in Pakistani Politics. The force exerted by the power elites inside institutions is more instrumental than the working capacity of concerned institutions. These perpetrations by the power elites may affect the hegemony of the institutions. By the help of this research it would be explored that why has some institutions become stronger i.e. military and bureaucracy and others i.e. representative institutions have touched the lower ebb? Moreover, how has the process of arbitrariness, which was prevailed in pre-independence Pakistan, cultured in the post-independence Pakistan?

Scope and Significance:

This research “power structure and institutionalization in Pakistan, 1947-71” helps us to understand the concept of power structure and power elites in the history of Pakistan. It also determines the instrumentality of the power elites and the method through which they have exerted power. The research focuses on the depreciation of power structure and intensification of institutionalization. Moreover, it emphasizes the strength of the representative institutions for it has direct relation with the institutionalization of democracy. Without imparting strength to the representative institutions, the strength of the democracy would be a myth.

Hypothesis:

In Pakistan through empirical bases, it can be substantiated that almost none of the representative institution is working effectively. The representative institutions have no hegemony of their own. Moreover, they are run by the power structure rather than by rule of law. This power structure has not only affected the process of institutionalization of these institutions but also demoralized its effectiveness. Same is the case for the institutionalization of democracy.

Literature review:

Much has been written on the issue/question at hand but the dilemma that researcher has experienced while coming across most of the readings is that the writers' line of arguments in addressing the issue, moves centrally around the personalities. This research work would focus on the study of institutionalization. To overcome and fill the gap regarding the thesis, the researcher has studied plethora of works while leaving the discourse open for further research in future. In this regard number of works proved beneficial which consists of: *The Culture of Power and Governance of Pakistan 1997-2008* by Dr. Ilhan Niaz. This book is an analytical cum historical account of the particular concept of culture of power and its exercise by the government apparatus in the context of South Asian region in general and Pakistan in particular. The book has surveyed and explained an institutional aspect of politics and governance in Pakistan. This work is important to the undertaken research in the sense that both deals with the question of institutionalization. Similarly, another analytical work worth mentioning; *Democracy and Authoritarianism in South Asia: A Comparative and Historical Perspective* by Ayesha Jalal is an important work in creating an awareness of historical kind in understanding the roots and ethics of democracy and authoritarianism in South Asia. It has propagated the causes of stalemate in the process of democratization in Pakistan. The writer has critically evaluated and compared the post-colonial structures and organization of Pakistan, Bangladesh and India. She has vividly analyzed the state processes of India and Pakistan in a way that in one state the democratic culture was upgraded; whereas, in other state it was demoted respectively. *Pakistan: A Modern History* by Ian Talbot is another detailed study of widely stretched legacy of colonial India till the 5th decade of post-independence Pakistan history. This well researched book has comprehensively discussed the weaknesses of institutionalization. He blames the inability of the

institutional apparatus to cope and tackle the nurtured mishap skillfully. But this research in contrast to the aforementioned work would embark upon the discussion and inspection of the internal weaknesses of the institutionalization process. And *Pakistan: Political Roots and Developments 1947-1999* by Safdar Mehmud has traced the elongated period of constitutional cum institutional failure of Pakistani politics. The work has emphatically explained the hurdles embraced by the constitution framing and the role of power structure in concluding the present problems of institutionalization in Pakistan. The work has also explicated the putrefaction of democracy in Pakistan. While in this work the explanation of the relation of institutions with democracy is lacking which would be the principal task of undertaken research.

Methodology:

This research would be analytical and critical and comparative. The recent research would analytically evaluate the comparison between the representative institutions and non-representative institution. The comparison would be based on the institutionalization of the institutions, their strength in the state structure and the role of the power elites of the concerned institutions in the power structure of state structure. This task of research would be accomplished by consulting primary sources, secondary sources, articles, general, Newspapers and so on. The researcher would also visit enormous libraries and National Documentation Center for a purpose to make work more authentic. Moreover, analytical and empirical data would be used to gain the objective of this research.

Chapter outline:

This research work has been divided into four chapters.

- **Chapter one: power structure and Institutionalization** exhaustively provides the concept of power elite and power structure. It will also determine that how does the power structure affect the process of institutionalization. This chapter would work as a conceptual framework for the rest of the thesis.
- **Chapter two: Power structure and institutionalization, 1947-1958** would discuss the ineffective role of the representative institutions in the first decade of Pakistan. The chapter would focus on the derailment of democracy. Interestingly this phenomenon of deinstitutionalization of democracy was cultured time and again.
- **Chapter three: Power structure and institutionalization, 1958-1969** provides the basic power struggle during president Ayub khan era. The chapter will discuss in-depth that how did the pseudo-political and bureaucratic elites support the military regime to secure their own cause. It would also discuss the dependency of politicians and representative institutions on the indication of the military dictator which latter rot the democratization process.
- **Chapter four: Power structure and institutionalization, 1969-1971** is the last chapter of this research. This chapter realizes the comprehensive study the institutionalization of military dictatorship. The chapter would also highlight the discourse of the fall of Dhaka which was tactically perpetrated by the power elites of political and military cadre.

Chapter # 1

Power Structure and Institutionalization

The purpose of this chapter is to provide the conceptual framework of “Power structure and Institutionalization”. This research would profoundly discuss the concept of power, power elite, power structure, institutions and institutionalization. Moreover, it would also analyze that to what extent the power structure affects institutions, process of institutionalization inside institutions and institutionalization of democracy.

Power:

The concept of power is elusive and complex to understand. It carries all the philosophical, political and empirical connotations. This research work would intervene to realize the possible roots of power and its exercise in the intra-state and inter-states politics. The researcher will apply that concept of power on Pakistan history which is more apprehensible.

Complexity of power has disclosed myriad dimensions and aspects of power. Each philosopher has given its own definition and explanation distinguished from others. In this concept of ‘power’ some thinkers concentrate on the exercise of power. At the same time, others would reject the very idea of ‘exercise fallacy’. They argue that power is dispositional idea signifying the capacity that may or may not be exercised.¹ Some philosophers place the concept of power in relation to ‘domination’. According to this concept, ‘A’ would affect the interests of ‘B’. But the critics of this definition claim that power may be productive and positive rather negative. The positive concept of power is productive and it brings some developments. In this

¹Steven Lukes, *Power: A Radical view* (New York: Palgrave, 2005), 109.

regard, Micheal Foucault also states that power might be taken in positive sense. He further accentuates that the conflict generated between two bodies always brings a change in productive way. So, this change might push us to institutional maturity and transformation.

The modern concept of power begins with Niccolo Machiavelli.² It does not mean that before Machiavelli the concept of power was not present. It was present there, as Michael Foucault says, that ‘Power is present everywhere’. Moreover, in this line, the contribution of Niccolo Machiavelli, Thomas Hobbs, Robert Dahl, Peter Bachrach, Morton Branze, Steven Lukes and Michael Foucault are appreciable. With the coming of Michael Foucault, the area and scope of power was expanded. He transformed the concept of power from sociology to all the other disciplines of social science and humanities.³

Niccolo Machiavelli:

Niccolo Machiavelli has written numerous works including “*The Prince*” which is the clear manifestation on his part to teach the ruler how to behave or exercise power. He was pragmatic and advised the ruler after studying the psychology of people. He argues that people look at the outcomes and repercussions; so, the ruler might act wisely and viciously. Moreover, he has also categorized the rulers by exposing his two faces. In this regards, he utters that rulers might be cruel or merciful, generous or rapacious, weak or strict and more importantly to be loved or feared. In the connotation of love or fear, the phenomenon of ‘to be feared’ would be more beneficial for ruler than ‘to be loved’. The reason is that man is materialistic and he breaks whole

²ElishevaSadan, *Empowerment and Community Planning* trans. Richard Flantz (Tel Aviv: HakibbutzHameu Chad Publisher, 1997), 33.

³Ibid., 37.

the bounds of love when he sees the material gains. Contrast to it, fear is maintained for it would be followed by punishment which is more effective.⁴

Machiavelli further says that to have hegemony on the people, the ruler should know how to be brutal? Moreover, in this discourse of state administration, the ruler might rely on himself alone. He should make personal and direct contact with the people rather indirect contact through his nobles.⁵

Thomas Hobbes:

For understanding Thomas Hobbes's concept of power, his ideas about "state of nature" are inevitable to understand. Hobbes is of the opinion that food, clothing, water and shelter are the basic needs for every individual. In the "state of nature" the people were engrossed in quarrel with one another. The people of that "state of nature" were competing with one another to gain more and more. In this context Hobbes call a man as materialistic and selfish. In a fight to sustain himself, man would perpetrate every possible action to gain something and harm others. To escapes the people from this state of war, he gives the concept of centralized power.⁶ This centralization of power would obviously transform the society to a more stable society. This centralization of power i.e. governmental apparatus will restrict the people to quarrel among each other in the presence of state laws. Moreover, in the "state of nature" everyone is in search to acquire power. This power would guarantee happiness and get the human desires fulfilled. By

⁴Joseph Losco and Leonard William, *Political Theory Vol.I :Thusydides to Machiavelli* (Los Angles: Roxbury Publishing Company, 2003), 336.

⁵Ibid.,332.

⁶Sadan, *Empowerment and Community Planning* trans. 34.

getting power one thinks to achieve desires. For Hobbes, the desires are endless and so the lust for power acquisition only ends with the death.⁷

One dimensional view of power:

The one dimensional view of power can be defined as; the approach of power that focuses on behavior to make decision on issues which are under perpetual conflict of interest.⁸ The propagators of this approach are C. Wright Mills, Floyd Hunter and Robert Dahl. The thinkers of this approach have defined this view with some concrete and tangible explanations. The approach consists of only single dimension i.e. 'decision making'. They only emphasize on 'exercise of power'. In their account, power means 'participation in decision making' and concrete decisions.⁹

This approach is characterized to relate the concept of power to that of 'decision making'. They conceive the nature of power like 'influence', 'control' and 'domination'. In more comprehensive words this approach can be fathomed 'when one actor 'A' influences or affects the other factor 'B' of the game in decision making'.¹⁰ The most important thing of this approach is that they have concretized the people or group who has power. Moreover, they have designated that how one actor influences the other in decision making or solving the key issues.

Two dimensional view of power:

No doubt, in the beginning, the concept of power was simple, concrete and tangible as the first dimensional view of power. The more we proceed ahead, the more complex the concept of

⁷ Joseph Grcic, "Hobbes and Rawl on Political Power", *Etica&Politica/ Ethics & Politics* (IX 2007),373.

⁸Lukes, *Power: A Radical view*, 19.

⁹Peter Bachrach and Morton S.Baratz, "Two faces of power",*The American Political Science Review*,Vol. 56, No. 4.(Dec., 1962), pp.948.

¹⁰Lukes, *Power: A Radical view*, 16.

power becomes. The two dimensional view of power has advocated one new dimension of ‘exercise of power’. It also criticizes the concrete and tangible nature of ‘exercise of power’ in decision making. The propagators of this approach i.e. Peter Bacharach and Morton Branze have exposed the less apparent facet of the exercise of power. It is defined as; two dimensional view of power is critique to the behavioral focus of the first view and it allows the prevention of the decision making on observable conflict of interest.¹¹

Although this two dimension view of power is abstract but still understandable. The advocates of this view argue that it is futile to concentrate on the apparent demeanor of ‘exercise of power’ in decision making. Along with this decision making, the people at the same time, consciously or unconsciously hinder the decision making. This prevention of decision making is termed as ‘non-decision making’ in the books of two faces of power.¹²

The exponents of two faces of power are critical to the very premises of the power concept of one dimensional view. They argue that the pluralists visualize the power so tangible that an ordered form of hierarchy and stratification flourishes. This stratification of power elites based on various hierarchies gives shape to power structure.¹³ Contrast to this view of power, its critics upholds that no categorical and empirical nature of power exists. The power exercised in society is devolved rather centralized.

In the two dimensional view of power, there prevails a persistent conflict between partisans of decision making and non-decision making. The conflict in this case needs to be solved through mutual coordination and consensus. The form of conflict generated in this form of decision making is both overt and covert. Tackling of these overt and covert forms of conflict

¹¹Ibid., 24.

¹²Peter Bachrach and Morton S.Baratz, “*two faces of power*”, *The American Political Science Review*, Vol. 56, No. 4.(Dec., 1962), pp. 949.

¹³Ibid., 947.

in the political process may distinguish this approach from one dimensional approach. The fundamental of two faces of power is more abstract in comparison to one face of power. This concept of two faces of power revolves around the “mobilization of bias”. Mobilization of bias means that each organization can fully exploit the situation in a way that some kinds of conflicts are suppressed whereas others are given birth.¹⁴ Two dimension view firstly analyze the ‘mobilization of bias; and then determine that how does the non-decision making would resist the hegemony and domination of the decision making.¹⁵

Three dimensional view of power:

The founding father of this approach is Steven Lukes. This approach has been explained in a detailed way in his work *Power: A radical View*. This approach is a thorough going critique to both the first and second dimensional view. He argues that it is not necessary that power is exercised only through decision making and non-decision making. He emphasizes that the potential issues on which the decision making is based is placed outside the political game i.e. real interest. Moreover, along with the overt and covert form of conflict another, latent conflict, is also experienced. In this case, the contradiction is seen between those who exercise power and those who are owner of the real interest. But the dilemma that is faced is the real interest is excluded from such a process.¹⁶

In the three dimensional view another new dimension of the ‘real interest’ has been disclosed. Here, in this case, where power is exercised, the actors remain unrecognized to the real power. The empirical basis of identifying the ‘real interest’ depends upon ‘B’ rather on ‘A’.

¹⁴Lukes, *Power: A Radical view*, 20.

¹⁵Peter Bachrach and Morton S.Baratz, “Two faces of power”, *The American Political Science Review*, Vol. 56, No. 4.(Dec., 1962), pp.952.

¹⁶ Steven Luke, *Power: A Radical View*, 28.

In three dimensional view, 'A' would exercise its power over 'B' and similarly 'B' would utilize its complete option for the real interest in its relative authority. The critics of this this view states that as the 'real interest' is conflicting and of different kinds. It basically does not depend on 'A' but rather on 'B', to exercise the available option regarding its relative autonomy. Here the real interest becomes puzzled when one's 'metaphysical interest' becomes in conflict with the 'welfare interest'. For instance, for fundamentalist Christian, the use of medicine for the welfare interest of his body is directly proportional to the violation of the will of God.¹⁷

Michael Foucault:

With the coming of Michael Foucault, the Span of the power discourse expanded. He came up with distinguished approach and rejected all the traditional persisting form of power concepts. Before him, the Marxist paradigm considered power as something possession exercised by powerful over powerless. Michael Foucault rejected this view and defined power as something diffused and decentralized. He advocated that power is present everywhere¹⁸ and where power persists there would obviously resistance to counter this power.¹⁹ In this context power is not possession but rather strategy. Every individual or institution that has capacity exercises its power and in response the resistance is also exerted.²⁰ In this sense, when the oppressed has acquired the capacity to resist the exerted power than Michael Foucault is right to say that power is strategy rather possession.

¹⁷Ibid., 147.

¹⁸Micheal Foucault, "The Ethics of Care of the Self as a Practice of Freedom" in James Bernaur and David Rasmusses, eds., *The Final Foucault* (Cambridge, MA:MIT press,1988), 11.

¹⁹MichealFoucault, *The History of Sexuality*Vol.I, translated by Robert Hurely (NewYork:Pantheon, 1987), 36.

²⁰S.Mills ,*Micheal Foucault* (London: routledge,2003), 35.

Before Michael Foucault's concept of power, power was considered something coercive with negative impact. Michael Foucault repudiated the negative aspect of power and explored the positive aspect. He looks all these processes through the glances of dialectics. Moreover, in the relational context he says that conflict might bring change. In dialectics, this change would be positive, productive and progressive because every conflict helps in disclosing the hidden idea. Moreover, this change also helps in institutionalization for it would proceed toward progress and change. In the *Discipline and Punishment*, he argues that how the power was exercised in various stages of European history and this conflict brought a positive change by replacing the Monarchy to Democracy.

Power elites:

The power elites are of the same category complex in understanding its nature as that of power. The power elite are so much diffused in society that when they come into contact, they form a power structure. For realizing the true power elite a profound analysis of the society is required.

Here we would signify the power elite into higher circles and lower circles. This categorization of power elite into two groups or circles would actually give concrete and material understanding regarding this concept.

The foremost thing is that if we own the simplistic view of power it is defined; that how power is exercised and hegemony is created in 'decision making' to dominate the people. In this case the power elite of higher circles have occupied the pivotal and key positions on the top of the institutions. Similarly, some people in lower circles are also entitled with legitimate authority to have say in 'decision making'. So, the people who exercise the power in higher level or lower level are power elite with distinguished capacity of power.

Analyzing these both higher and lower circles, it is stated that the power elites, both sitting on the top key positions or the other lower positions of any institution, are blessed with some legitimate authority to exercise their respective doze of power. The exercise of power by power elite of any circle affects the institutions and institutionalization process.

The power elite of higher or lower circle are also called the chosen people by some thinkers. The doctrine of the chosen people has been generated from the tribal setup. In the tribal system, the tribe as a whole imparts its force as a social identity. The value of individual is considered comparatively less than the whole i.e. tribe. In this tribal tradition, they accentuate the significance of the group, class or collectivism.²¹ This idea of chosen people is clearly manifested in the valuable versions of racialism and Marxism. In racialism, the particular race who constitutes a compact group struggles for creating hegemony. In Marxism, the class who fights for the economic supremacy is so closed with each other that the people of same class have acquaintance or acquaintance in character with the group people.²² Moreover, the real power lies in the hands of men who are mundanely opulent. The liberal view on the other hand, point out politician as the real pivotal point of power system. Similarly, some others concentrate the amalgamation of power in the hands of the warlords and military dictators. To be emancipated from such aforementioned simplified concepts, the term ‘power elite’ has been used rather ‘ruling class’.²³

When the ‘ruling class’ and power elite are differentiated then it means that both carry distinguished paradigm, strategies and their implementation. No doubt, to relate the power elite to opulent is unjust. The power elite span is comparatively vast and it encompasses, in higher circles, the chief executives of the corporates, the political directorate of the political system and

²¹K.R.Popper, *The Open Society and Its Enemies* Vol.I (London: Routletge, 1966), 9.

²²Ibid., 9-10.

²³C.wright Mills, *The Power Elite* (New York: Oxford University Press, 2000), 277.

the military personnel of higher positions. These all the top elite of various institutions placed on the apex affect the inter-institutional and intra- institutional process of institutionalization. These power elites have been acquired the institutional and legitimate authority which is recognized by the overwhelming portion of our population. Sometimes, the power elites of ‘lower circles’ do not have recognized authority but they still exercise their power by having close affinities with the higher circle elites.

In the higher circle, the power elite occupy the pinnacle positions in the state machinery. They are simultaneously the processors of wealth, power and celebrity. So, they have placed their selves at the peak of social stratum. This discriminatory feature that distinguished the power elite from the common people is simply counted in term of more energy and superior character.²⁴The power elite are labeled as elite for they impose their will on others instead of others resistance to it. They become vicious in exercising the power for their personal interest and simultaneously exposing the sacred version of their authority. The entitled authority by the respective institution to its individual has been bestowed for institutionalization and monitoring of the same institution. Contrast to it, they show up the institutional legitimacy of the entitled power but conceal the task for which this is entitled. Moreover, they become engrossed in exercising their authority in illegal and personal will which is not imprinted by the institution.

This institutional power imparted either to top class officials, larger corporates, higher politicians, military officials or executives are the real power elite. Sometimes, the power might not be institutional, but still it is exercised legitimately by various groups like bourgeoisies, chosen people etc. Moreover, in the context of U.S.A, C. Wright Mills has notified power elites in clear and vivid words. He says;

²⁴Ibid., 13.

If we took the one hundred most powerful men in America, the one hundred wealthiest, and the one hundred most celebrated away from the institutional positions they now occupy, away from their resources of men and women and money, away from the media of mass communication that are now focused upon them then they would be powerless and poor and uncelebrated.²⁵

If the same concept of elite hegemony is applied on the smaller circles i.e. lower level, the consequences would be the same as the in higher circles. At the village level, or small city level, some faces have surmounted the common population. These elites in lower circles are much autonomous in decision making as the power elite of higher circles in their respective capacity. These power elites of lower circle belong to the upper set of families, who are interconnected among one another completely.²⁶ These power elites albeit, struggle for their hegemony in their respective sphere are distinguished from the national elites. They are not the part of the higher circle elite cliques who are engrossed in manipulating their interest for the sake of exploitation of the common public. The regional power elite, having discretionary power exercised in their sphere are always sub-ordinated to the national elites. For amalgamating with the national level elite or structure, they have to abandon their level and have to rise to the level of higher circles with the passage of time.²⁷

The desired norm in today's world is to achieve the stable and peaceful society or community. For, a community, the social forces needs to be minimized. But if any society is composed of numerous groups, clan and tribes then the political activism for the acquisition of power would be much. These distinct groups, following their own interest, would try to dominate the other groups. In such an abode, where people are following their own will and favoring their own interest, cannot make a community. No doubt, the heterogeneous societies cannot be run by

²⁵Ibid., 10.

²⁶Ibid., 30.

²⁷Ibid., 39.

single social force but rather by distinct groups and forces. So, these groups or forces might fight on various issues. Resultantly, the conflict would be given birth. To be emancipated from such conflicts and to frame a community or stable society, political mechanism needs to be introduced in the society. Each group of the concerned society should be restricted to use and exercise the power in the framework entitled by the institution. So, these political institutions may help to redirect the power in such a way that it would be made compatible with the other groups of community.²⁸

White Collar employees are the state servants in each country. The power imparted to them is legitimate authority entitled by the institution. The pyramid of white collar employees is hierarchical. These white collars sometimes act as a junction to reconcile the common people and power elites. Sometimes they themselves behave as power elites. They are structured in decentralized shape. The power of such white collar differs from the other servants because of its hierarchical organization. In this context, some white collars are the master and other behave as slaves. The most important character of these white collars is that they do exercise the empowered power in their own capacity.²⁹

The distribution of power depends on the people and state institutions of the concerned country. Sometimes the distribution of power is devolved and diffused in society. Every individual occupying any position carried some legitimate authority. Sometimes the concentration of power is seen in single individual. The centralization of power is converged in a single ruler; for instance, Ceasor of Rome, Napoleon of France, Lenin of Russia and Hitler of Germany. Consequently, this centralization of power in the hand of single man was sometimes

²⁸Samuel P. Huntington, *Political Order in Changing Societies*(New Haven: Yale University, 1973), 9.

²⁹C.Wright Mills ,*White Collar; The American Middle Class* (New York: Oxford University Press, 1951), 74.

faced with awesome problems of devastation.³⁰ Similarly, in the case of pre-modern India, where the power was reserved in the hands of the single ruler. There persisted almost no other constitutional authority that could possibly check the ruler and his authority. The people under his jurisdiction were obeying the commands of the unchecked ruler.³¹ This centralization of power in the hands of single ruler gave genesis to arbitrariness. This arbitrariness actually rusted the process of institutionalization.

Power structure:

The people who have power are power elite. These power elites when come to organize themselves in the form of loose or compact organization are called power structure. These power elites of higher circles may form a compact and psychological entity in the form of top social stratum. The people living in this spectacular stratum have acquaintance with one another in social and trade terms. They form such kind of sacred shell that hinders the entrance of those people who don't resemble their behavior and style. They are self-aware with their interest. They know and understand one another. Tolerate and have space for one another. Most importantly, they have tendency to think alike if not amalgamated.³² These affiliation are not only limited to that group of power elite who are the part of the system but also penetrated into their family setup. All the sons and daughters of the elite families adapt a distinguished way of life for they need to remain distinctive. They read in the same standard schools. They after completing

³⁰Mills, *The Power Elite*, 23.

³¹Karl. A. Wittfogel, *Oriental Despotism: Comparative Study of Total Power* (New Haven: Yale University press, 1957), 103.

³²Mills, *The Power Elite*, 11.

education marry with one another or in the families of similar caliber. By this way, they secure their generation and help them to have say in decision making.³³

The power elites who form a specific stratum in the society reshuffle with the passage of time. For example; in the mid-20th century, the structure of the old middle class was faded steadily with the emergence of new middle class. The change in this social stratum actually affected the whole organizational structure of the society. The members of this new social stratum neither form a single compact group nor rose to a single horizontal level. Actually their setup was based on hierarchical ground ranging from top to bottom.³⁴ The power elite of this specific structure are sometimes completely organized and vice versa. Behind their personal to personal contacts, they moreover focus on the social stratum and psychological traits. Person to person acquaintance of the power elite do not signify their unity in decision making; and similarly, their disconnection with the group members is not a signal for reason disunity in their decision making. This structure of power elites sometimes depend on the personal affinities and sometimes on social and psychological.³⁵

In the context of Pakistan, the power elite of different institutions form a power structure. The elites of this power structure had close affinities with the colonial masters. This is stated because of the fact; that after the inception of Pakistan, the state authorities adapted the power structure from the colonial masters.³⁶ Accordingly the military, civil-bureaucracy and feudal lords formed a compact nexus. Their hegemony on the state machinery in the new born state brought instability among the institutions. In this race, some institutions like military and bureaucracy moved upward, whereas; other institutions like civil society and political institutions

³³Ibid., 30.

³⁴Mills ,*White Collar; The American Middle Class*, 64.

³⁵Mills, *The Power Elite*, 287.

³⁶AkmalHussain, *Power Dynamics, Institutional Instability and Economic Growth : the case of Pakistan* (Lahore: The Asia Foundation, 2008), 36.

touched the lower ebb. So, the tussle between these different kinds of institutions created disequilibrium inside the power structure of Pakistani state.³⁷

Institutions:

Every society and state needs to bring systemization and efficiency in their performance. The aim of this systemization and efficiency imparted the idea of good governance. Without the existence of institutions, the society would be run by power elite who would be partial in nature and inefficient in performance. The society as whole tolerates this partiality inflicted by the power elite as a natural calamity. Realizing the difference between the natural and human calamity, we have to study the ‘natural’ and ‘normative’ laws through the Plato’s sociology of ‘closed’ and ‘open’ societies. For a long time, the distinction between natural and normative laws was at the lower ebb in the closed society.³⁸ Steadily, the breakdown of tribalism helped the people to distinguish the natural and human beings (sociological) laws. This resulted in the genesis of the normative laws which are changeable rather than that of natural laws which are non-changeable and fixed. Later on, this understanding of alterability accelerated the process of law making. In the list of law makers, not only Solon but also numerous other law-givers, who contributed for framing the laws of democratic cities³⁹ are also enlisted. The genesis of normative laws was a milestone in the way of the creation of institutions.

Institutions are not born overnight.⁴⁰ It passes through the process of evolution. So, it needs a wide time span to contribute to society. The more the time an institution has spent the more stable and organized it would be. At the same time, during the evolutionary process, the

³⁷Ibid., 126.

³⁸Popper, *The Open Society and Its Enemies* Vol.I, 59.

³⁹Ibid., 60.

⁴⁰Huntington, *Political Order in Changing Societies*, 14.

organization faces various conflicts. These conflicts, looking through the lenses of dialectics, lead the organization toward change and progress. These changes and progress may not be abrupt. This all depends on the conditions, time and space and the nature of the organization. The more an organization develops the capacity of adaptability, the more institutionalized the organization would seem to be.

Institutions and institutionalization of a political order is more inevitable than the emphasis on individuals and power elite. In this context Plato's approach to politics was unique. Plato's political program carries institutional demeanor rather personal. He argued that even the genesis of leader might occur through institutional way. In this regard, Plato tried to replace the mainstream idea that "who rules"? He diverted the mind of common people to a new idea that power must not reside in the hands of a group, class or individual but rather institutions. He was of the view to concentrate on "who rules?" It is more important to focus on that how the political institutions could be organized to prevent major damage to the system by the hands of incapable ruler?⁴¹

The purpose of the institutions is to bring stability inside society. The society is very complex structure. The transformation of this society into community needs the presence the political institution. The more stable and efficient the political institutions are the more efficient be its performance in transformation of society to community. The establishment of community is knotty process. The community produced by clan, tribe or village might need little conscious efforts. But the creation of community, with large number of people, is fatigue able task. Simple societies are actually the community that does not need the performance of the highly distinguished institutions. Moreover, the complex societies need some kind of political activism

⁴¹Popper, *The Open Society and Its Enemies* Vol.I, 121.

to be transformed into community. The role of the institutions during this process of transformation is highly appreciable.⁴²

The aggrandizement of smaller societies into larger ones brought various disagreements among the social forces. These forces gave genesis to conflicts and the conflicts need to be solved to bring harmony, stability and peace in society. Resultantly, the genesis of political institutions took place to overcome these conflicts and diversified social forces.⁴³ So, now political institutions are the symbol of stability and harmony of that society which is submerged in divergence and disagreements.

If the political institutions were sharp to expose its expertise and professionalism, the essence of institution would be more effective. The strength of the institutions depends on the level of coherence, complexity, autonomy and adoptability of an organization.

Coherence is the first element through which the strength of the institutionalization can be measured. The more the quantity of coherence inside any organization would favorably result for strong institutionalization and vice versa.⁴⁴ The coherence means the organization must have consensus on the internal and external disputes and also the disputes that directly or indirectly affect the function of the concerned organization.

Complexity is also one factor that gives strength to the process of institutionalization. The institutions that are more diversified and complex are stable and institutionalized, if the power is devolved and diffused rather centralized. The structures of larger organizations are hierarchical. The power would be de-centralized in such organizations. The interests of the people would not be concentrated in single hand. The sub-units of the larger organization would be intensified in numbers. The organizational structure of more sub-units would be loose and hierarchical, which

⁴²Huntington, *Political Order in Changing Societies*, 11.

⁴³Ibid., 11.

⁴⁴ Ibid.,22.

would signify the level of its institutionalization.⁴⁵ Contrast to it, the simple organizations is more compact and centralized. Such kinds of organization are more or less run by the discretion of these power elite who are sitting on the top of the positions.

Autonomy is also one element of the measurement of institutionalization. Autonomy is that element which distinguished one organization or institution from other. The autonomy in this sense of institution means that institution might be independent in decision making. At the same time, it must be in integration with other institutions and organizations.⁴⁶

The last magnitude of the measurement of institutionalization inside an institution is adaptability. The institutionalization can be acquired from the adaptability due to the confrontation of an organization to more challenges. To every challenge that an organization faces, the organization would produce a response towards that challenge. Consequently, such kinds of challenges and response by an organization would help the organization to be adaptable towards such circumstances that are being faced. So, the older organizations which have confronted more challenges would be more institutionalized and stable.⁴⁷

The practical manifestation of institutions could be seen from the spy institution existed in the *Arthashastra* state. This spy institution was so much organized and compact that its method of organization is still followed in the modern states. The spy servants were guised in accordance with time, space and circumstances. For instance, the spies with shaved head or braided hair were performing their services in an ascetic setup or shrine.⁴⁸ Similarly, other spies

⁴⁵Ibid., 18.

⁴⁶Ibid., 20.

⁴⁷Ibid., 13.

⁴⁸Kautilya, *Arthshastratrans*, R. Shamasastri's (Bangalore: Government Press, 1915), 26.

were also performing their services in the form of domestic servants, recluse, trader, colleague or begging women.⁴⁹

Power structure and institutionalization:

Power structure is composed of power elite. The power elites are those who have power. Here, the researcher will discuss that how the power structure or power elite affects the institutions and institutionalization of democracy. To how much extent the power elite are responsible for de-institutionalization of the institutions and system. Albeit individual are important in structuring the institutions but why have they been valued much than that of institutions in the political system? To proceed this discourse of individuals, state and institutions, analytical study is required.

The state recruits its subject on various positions for a purpose to serve nation. This recruitment is proceeded by, spontaneous flow of legal authority, from state to the concerned official. This conferment of authority to the recruited individuals is not felonious constitutionally. But the dilemma that is faced is; the officials once enter inside the state machinery lapse the opinion to be lived as a public servant rather master. He once realizes the true spirit of the 'exercise of power', adapts and structures his life in a way that he becomes a curse for the institutionalization process. Now, he becomes the authoritarian and arbitrary in his decisions. He, for most of the time, considers himself above the law in a sense that he perceives the law as dead and it does not arrest the abettor.

C. Wright Mills has highlighted that how the institutions are related to individuals? Moreover, how the both, institution and individuals, are connected to social structure in which they express their views. Obviously, the individual man has to perform their role and utilize their

⁴⁹Ibid., 25.

energies inside social structure to be benefitted from. The connection between the institutions and individuals are so much important that sometime individual give genesis to institutions, and institutions in response nominate and frame the individuals accordingly.⁵⁰ To put the aforementioned concept in other words, it would be stated that the individuals are important in constructing the institutions. Moreover, it is the individual that helps in upgrading the process of institutionalization inside the established institution. This mechanism of institutionalization is conditioned to be proceeded only by those who consider their selves under law.

The institutions that are working inside state machinery must be balanced. This balance would help the system to run smoothly. Any imbalance inside institution or institutionalization process might impede the selection of a natural leader. The improvement of the institution on priority bases is inevitable. The institutions cannot improve themselves; it depends on the working inside it.⁵¹ If once, these people imparted their energies to improve the institutions, then the institutions would obviously response in selecting the natural leader. This institutional improvement once attained through the people working inside it would run the state, society and political mechanism above the will of individuals.

The process of solving the problems is here stuck between the individuals and institutions. On mass level, the individuals are considered the architect of removing the unpleasant conditions. But democratically, the long term decisions are taken by the institutions to wipe out the persisting problems. In this regard, the arbitrary rulers can be controlled the institutions and institutional mechanical policies. So, the institutions must be strong and it must

⁵⁰Mills, *The Power Elite*, 96.

⁵¹Popper, *The Open Society and Its Enemies* Vol.I, 127.

have the capability of check and balance to control the bad rulers from committing much destruction.⁵²

Every institution requires change for progress. Without change and dynamism, the improvement is impossible. Change is that required factor which is experienced by every system, state and institution. If change means deviation from current line then it can be both positive and negative. Analyzing all these in the prism of the structural-functionalism, the change brought out by institutions might be positive. The reason is that institutional changes are not random but it takes much time. Moreover, these changes develop in a specific direction.⁵³

If change and conflict is analyzed in philosophical terms, then we would become clearer about its nature and repercussions. Everywhere in society, where force is exerted or power is exercised, the genesis of conflict occurs. The conflict according to some philosophers is positive, because it pushes the society towards progress. Whereas, some others argue that force exertion and conflicts bring negative impact to both society and institution. This actually impedes the way of development. In the philosophical sense this concept might be portrayed by analyzing the ideas of Plato, Marx and Hegel. Plato is the originator of the “theory of Form and Idea”. This means, according to him, that ‘Original and Reality’ could not be perceived by senses. Moreover, everything that could be touched or experienced through the senses is the copy of that ‘Original and Reality’. To put this in other words, all material things are the material manifestation of that reality. That reality is in static and stable form and all the material manifestation of that reality would be in flux. Further he accentuate, that all the things, that are in state of dynamism and flux tries to change its form and moves toward corruption and impurity. In this regard, he gives the

⁵²Popper, *The Open Society and Its Enemies* Vol.II, 131.

⁵³S.N.Eisenstadt, “Institutionalization and change” *American Sociological Review*, Vol. 29, No. 2 (Apr., 1964), pp. 236.

example of “Ideal state” which was stable, pure and perfect. With the passage of time, as the Ideal State tried to change its shape to other form of political systems, its degeneration started.⁵⁴ Firstly, the Ideal State changed to Oligarchy, Democracy and finally to Tyranny. The more anything changes its form, the more it deviates from its reality and consequently degenerates.

In response to this, the theories of Karl Marx and Hegel, which are based on dialectical Materialism⁵⁵ and dialectical Idealism⁵⁶ respectively, portray the change in the form of progress.⁵⁷ In both the philosophies, the process of dialectical materialism and dialectical idealism are followed through the mechanism of ‘law of negation of negation’ i.e. the phenomenon of thesis, anti-thesis and synthesis. Similarly, Michael Foucault is also of the same opinion that conflicts are beneficial. Conflict brings changes and changes are progressive and positive.

These changes that come with the passage of time would really strengthen the institutions. Along with this, all the institutions that are working inside the state jurisdiction must be balanced. The construction of every state has assigned its legitimacy for any institution to perform activities in their specific spheres. If in any case, one organization or institution go behinds its limits, then the whole structure of the state institution is affected. Hence, the balance of state institution is necessary for smooth functioning of the individual department. The check and balance and the theory of separation of power would be convenient in this context.

Political stability is the desired norm which is the demeanor of strengthened institutions. Such institutions itself impede the individuals and power elite to hypnotize the whole situation. In the developed states such as U.S.A, every constitutional order i.e. theory of separation of

⁵⁴Popper, *The Open Society and Its Enemies* Vol.I, 140.

⁵⁵Karl Marx And Friedrich Engles, *The Communist Manefisto: With the Conditions of the Working Class in England, and Socialism Utopian and Scientific* (Hertfordshire: Wordworth Classic,2008), 374.

⁵⁶Ibid., 370.

⁵⁷Popper, *The Open Society and Its Enemies* Vol.II, 36..

power, check and balance, federalism and regular elections belittle the government authority.⁵⁸ The lack of institutional maturity inside institutions empowers the specific group in the form of power elite to acquire the unlimited authority. For instance, the regular election is a tool that prevents the specific group to rule permanently in modern states. The same tool of elections with weak institutional capability pushes the powerful and power elite to capture the desired position. So, the same tool, applied at different time and space, give different and undesired results. To rephrase the above statement, it can be stated that; the essence of political and institutional stability obstruct the individual hegemony to obtain desired results.

The political stability achieved through the institutionalization would impart good governance. So those governments which have low level of institutionalization can't implement the policies in a way as it should have been. The more the level of institutionalization inside institution, the more effective would be the government apparatus to deliver and vice versa.⁵⁹ Moreover, in the political communities also called institutionalized communities, the ruling class pays more attention to national loyalties.⁶⁰ In unorganized societies, a particular group of people called power elite frame such types of policies that are materialistic and appeal to their personal interest rather than state. These power elites modify the picture of 'what is required' in a way that benefits them. Analyzing these all power elites' policies are short term and benefit only particular section of society. Contrast to it, the institutional based policies is long term and benefit all sections of society equally. Moreover, the institutionalized communities are martinet in framing long terms policies and developing decisions than unorganized communities.⁶¹

⁵⁸Hungtington, *Political Order in Changing Societies*, 7.

⁵⁹ Ibid.,28.

⁶⁰Ibid., 30.

⁶¹Carl J. Friedrich, *Man and His Government* (New York: MC Graw-Hill,1963), 150.

Smooth institutionalization brings stability and harmony. Through these political institutions complex societies are transformed into political communities. In poor states, these processes of institutionalization are affected from inside or outside forces. Consequently, this collapses the whole system. Similarly, in Pakistani context, periodic interruptions by the military power elite in the political system devastated the whole political and institutional setup. Although the whole blame could not be, obviously, put on the single pillar of the state institution i.e. military but still its violation is larger in the democratic sphere. This tussle between the political elite' vis-à-vis civil military elites proceeded the process of institutional decay. Resultantly, today we glorify the personalities and their contributions rather than institutions which are worth of its due attention.

Chapter # 2

Power Structure and Institutionalization in Pakistan, 1947-58

The efficacy of the state machinery depends on the functioning of the institutions. If the institutions are balanced and effective, then the system would be smooth and vice versa. The chapter would analyze the comparison of the political institutions with that of non-political institution. Moreover, it would also emphasize that the potency of political institutions and political processes nourish the democratization process.

Bureaucracy:

The bureaucracy has its roots in colonial India. The British colonialization in India started with East India Company. The East India Company has an overwhelming impact on the society, laws, state structure and organizational set-up of India. The Company, firstly and fore mostly, apologetically entered in Indian Sub-continent through the strategy of trade and commerce. Steadily, their business designs changed to political and occupied the economy of Bengal. Later on, they penetrated into the social and political set-up of Indian Sub-continent. After ruling for an elongated period of three centuries, they introduced new and modern trends, values and institutions in India.¹

The East India Company had initially brought commercial designs but steadily it was transformed to political. The servants of the company were just employees. When the status of the company changed from commercial to political, the status of its servants also changed. The

¹Henry Frank Goodnow, *The Civil Services of Pakistan: Bureaucracy in a New Nation* (Karachi: Oxford University Press, 1969), 26.

servants of the company, who were traders, now transformed to administrators.² Now the specific term 'Civil Service' was used for them. These 'Civil Servants' subsequently opted for various tasks ranging from administrative level to Quasi-judicial level.³ It was basically the British parliamentary decree that had forced the company to divide the civil administration from business enterprise.⁴

Acquiring the governmental status, the nature of company changed from organization to system. The Company had started to carry whole the administrative activities. So, now number of changes was brought, under various Acts, regarding the administration and civil servants performance. These Acts, more or less, brought some modification regarding the mechanism of recruitment and organizational structure of the Civil Service.

The British parliament comprehensively discussed the issue of Civil Servants. In the light of these discussions, the parliament passed two Acts in 1784 and 1787. These bills organized the structure of Civil Service by providing solid pay scale, fix age for admission in Civil Service and promotion on the ground of seniority.⁵

All the higher cadre servants were forced to sign an agreement with company. So, the servants of the company were divided between 'covenants' and 'uncovenants' by 'signing' and 'not signing' the agreement respectively. After some time, some of the 'uncovenants' servants entered into an agreement with the secretary of state regarding the service. So, the clear and substantial difference came to be diffused between the 'covenants' and 'uncovenants' officers.

²Irfan Ur Rehman Raja, *Administration: Its Theory, History and Practice with Special Reference to Pakistan* (Lahore: Catapult Publishers, 1976), 130.

³Mumtaz Ahmed, *Bureaucracy and Political Development in Pakistan* (Karachi: National Institute of Public Administration, 1974), 26

⁴Goodnow, *The Civil Services of Pakistan*, 32

⁵Ahmed, *Bureaucracy and Political Development in Pakistan*, 27.

Consequently, the Aitcheson Commission introduces the name of 'Imperial Civil Service' for these officers. Later on, the name was modified as 'Indian Civil Service'.⁶ The Commission further accentuated that the appointment of both the service would be held through a competitive examinations. But the only difference would be that the exams of 'Imperial Civil Service' would be conducted in England only; whereas, the 'Provincial Civil Service' would be held in India. Both the Indians and Britishers would be eligible for these exams. Moreover, in the context of salary and status, the 'Imperial Civil Service' officers were paid more but the status of both imperial and provincial service would remain equal.⁷

In 1833, the commercial activities of the company were abolished and the company, more or less, controlled the administrative aspect. Further reforms in 1853 Act, initiated the process of competitive examinations to recruit the civil servants. Through the competitive examination, academically sharp students would be recruited to civil service.⁸

In 1886, the Aitcheson Commission came to India. Under this Commission, as discussed aforementioned, abolished the distinction between 'Covenant' and 'un-covenant' civil servants. Later on, the Isleton Commission of 1912 brought more modifications in the favor of Indians. According to this Commission, 25 per cent posts in the civil services of India were assigned for Indians.⁹ This Commission also intensified the hierarchical nature of civil services. As a result of this Commission, the civil servants transformed from mercantile servants to administrative servants. These Servants were divided into four classes. Class I officers were assigned administration and executive tasks; the class II, had the posts of operational level; the class III,

⁶ Charles H. Kennedy, *Bureaucracy in Pakistan* (Karachi: Oxford University Press, 1987), 21.

⁷ Jameel Ur Rehman Khan, ed., *Evolution of Pakistan's Administrative System: The Collected Paper Braibanti* (Islamabad: Pakistan Public Administration Research Center O&M Division), 14.

⁸ Ahmed, *Bureaucracy and development in Pakistan*, 28

⁹ Raja, *Administration: Its Theory, History and Practice with Special Reference to Pakistan*, 137.

were assigned clerical jobs; and the class IV, were imparted the position of peons and messengers.¹⁰

In the beginning of 20th century, the political consciousness of Indians at mass level had intensified. As the Indians were conditioned to take the exams of Civil Service in Great Britain, so the political leadership of India compelled the British master to hold the competitive examination in India too. Consequently in 1922, for the very first time, the competitive examinations were conducted in India for the recruitment of higher bureaucracy.¹¹

In 1924, the Lee Commission brought striking changes regarding the civil service mechanism. This Commission actually indianized the civil service. According to this commission, 20% of the civil servants might be promoted from the Indian Provincial Civil Services. Moreover, the remaining 80% would be divided on the equal grounds between Indians and Britishers.¹²

At the time of formulation of the 1935 Act of India, the civil servants agitated for the rights of their safeguard in the new constitution. The new Act incorporated the demands of Civil Servants according to their wishes.¹³ The same 1935 Act was adapted by Pakistan, after its creation, with least possible amendments. The Act still carried the safeguards of the civil

¹⁰ Dr. Agha Iftikhar Hussain, 'The Civil Services' in Jameel Ur rehman Khan, ed., *Government and Administration in Pakistan* (Islamabad: Pakistan Public Administration Research Center. O&M Division, 1987), 126-127.

¹¹ Goodnow, *The Civil Services of Pakistan*, 33.

¹² Raja, *Administration: Its Theory, History and Practice with Special Reference to Pakistan*, 139.

¹³ *Ibid.*, 140.

servants, who have now acquired the status of masters. Moreover, the constitutions of 1956¹⁴ and 1962¹⁵ have emphatically manifested the security of their jobs.

The British had framed this institution of bureaucracy to meet their own needs. The British masters were less in number and so they needed to control the huge and complicated society of India administratively. They had obviously calculated well, in that spectacular time and space, to run the administration by the way they did. After decolonialization, their withdrawal gave genesis to two independent and sovereign states in the form of India and Pakistan. So, to continue this institution of bureaucracy, experts' opinion was inevitable to be held. For this cause, the Pakistani state positioned those civil bureaucrats who had already worked in Indian Civil Services. These highly positioned bureaucrats exactly copied the I.C.S. and civil service with changing its only names for the purpose to secure their own interests.¹⁶

To analyze the Civil Service of Pakistan at the time of partition, one needs to have statistical data of that time. In the words of Ralph Braibanti, the administrative strength of Pakistan can be judged from the fact of shortage of the civil servants at the time of partition. During 1947, the total strength of the Indian Civil Servants was 1157. Out of these 1157 officers, only 9 per cent or 101 were Muslims. Among these 101 Muslim Civil Servants, only 95 opted for Pakistan, whereas; the remaining six Muslims, ICS-IPS civil servants, continued their services in India.¹⁷ Later on, one Christian officer, 11 Muslim military officers and 50 British officers joined this

¹⁴Government of Pakistan, *Constitution of the Islamic Republic Of Pakistan* (Karachi: Government Printing Press, 1956) Article, 181.

¹⁵Government of Pakistan, *Constitution Of the Islamic Republic Of Pakistan* (Karachi: Government Printing Press, 1956) Article, 177.

¹⁶GoodNow, *The Civil Services of Pakistan*, 36.

¹⁷Ralph Braibanti, 'Public Bureaucracy and Judiciary in Pakistan' in S.M.Haider, ed., *Public Administration and Police in Pakistan* (Peshawar: Pakistan Academy For Rural Development, 1968), 37.

bureaucratic class of Pakistan.¹⁸ A nut shell of 157 officers, comprising the bureaucratic cadre, started services for Pakistan. Out of these 157 officers, only 136 had been assigned for the administration. Moreover the quality of experience was not of satisfactory level. The burden of whole the state was conferred at the hands of inexperienced bureaucrats. Those bureaucrats who were somewhat experienced created hegemony over the whole institution. The quality of the experience can be analyzed from the fact that only four bureaucrats were present on the position of joint Secretary and none was prevalent at the post of Secretary.¹⁹ Out of these bureaucrats, 20 had crossed the 40, whereas; 60 of them were below the age of 35 years.²⁰

The deficiency of the experienced bureaucrats, after partition, demoralized the efficacy of policy making process in Pakistan. The policy making process was pushed towards complexity because of lack of accurate direction. All those who were positioned at pinnacle positions, occupied the whole mechanism of policy making. Specifically, the policy making process was strategically imparted to ICS-IPS cadre officials. The two top positioned bureaucrats, Ghulam Muhammad and Chaudri Muhammad Ali,²¹ controlled the administration in a way to direct whole the mechanism according to their own will. In the words of Dr. Ralph Braibanti, it cannot be stated that the managerial talent was insufficient at the other departments of government.²²

The concentration of bureaucrats, on the top position of administration, helped the bureaucracy to prove more strong, compact, organized and institutionalized in comparison to other political institutions. This centralized level of bureaucracy encouraged it to overcome the political organizations and political institutions. This master and slave relation, between

¹⁸ Ralph Braibanti, *Research on the Bureaucracy of Pakistan: A Critique of Sources, Conditions, and Issues, With Appended Documents* (Durham, N.C: Duke University Press, 1966), 116.

¹⁹ GoodNow, *The Civil Services of Pakistan*, 29.

²⁰ Braibanti, 'Public Bureaucracy and Judiciary in Pakistan', 39.

²¹ GoodNow, *The Civil Services of Pakistan*, 29.

²² Braibanti, 'Public Bureaucracy and Judiciary in Pakistan', 35.

bureaucracy and political institutions, stemmed imbalance between political and bureaucratic arms of the state. The superiority of the Civil-bureaucracy of state machinery goes around two factors. Firstly, the politicians were fragile to conduct the administrative functions and bureaucrats were efficient in this line. And secondly, bureaucracy of Pakistan was an organ like other organs of states, but it lacked any kind of political and judicial check.²³

In the very first decade, Pakistan was a federation demeanor by a parliamentary system. The system would constitutionally confer strength to representative institutions. But in this period, the political institutions were at lower ebb. Whole the authority was concentrated in the hands of Governor General. The arbitrariness of the Governor General or President had superseded all the other authorities. To substantiate this, from 1947-65, Governor General and President issued 459 ordinances against 454 acts passed by the parliament.²⁴

The same power of Governor General was assigned to the provincial Governors. Governors are representative of the Centre. They are appointed by Governor General on the advice of the Prime Minister. The Governors of the first decade were client to the Governor General or President but they were masters to their respective provinces. In this regard, they neither hesitated nor dawdled in exercising their power. This arbitrariness of their power exercise can be authenticated from the fact that Governor Raj was executed in Punjab from January 1949 till 1951, in Sindh from December 1951 till May 1953, and in East Pakistan from May 1954 till 1955.²⁵ If the structure of bureaucracy is further narrowed down at divisional and district level, the bureaucrats serving at that positions have despotic powers. Below the Governors, the administrative policies are framed and executed by the Chief Secretary, Divisional

²³ Ali Cheema and Asad Sayeed, *Bureaucracy and Pro-Chang* (Islamabad: Pakistan Institution of development Economics, 2006), 8.

²⁴ Ahmed, *Bureaucracy and political development in Pakistan*, 40.

²⁵ *Ibid.*, 42.

Commissioner and District Officers in secretariat, division and district respectively. The Deputy Commissioner of any district is the 'kingpin of administration'²⁶ of that particular district.

During 1947-51, the bureaucratic set-up was under the strict control of the career politicians i.e. Quaid-i-Azam and Liaqat Ali Khan. Quaid-i-Azam, an inspiring leader, neither allowed bureaucracy nor military to overcome the representative institutions.²⁷ Liaqat Ali Khan was comparatively less efficient to Quaid-i-Azam but still he was symbolized as a national leader until the disintegration started inside Muslim League. Later on, the status of the bureaucrats especially CSP officers²⁸ changed after the demise of Liaqat Ali Khan in 1951. The gap of the career politicians created after the assassination of Liaqat Ali Khan was filled by bureaucrats.

The ex-bureaucrats, Ghulam Muhammad, became the Governor General of Pakistan. Since 1951 till his resignation in 1955, he arbitrarily exercised his power. He had in totality hindered the fosterage of representative institutions and forces. After the resignation of Ghulam Muhammad, his offshoot in the form of Sikandar Mirza, occupied the position of the Governor General. He like Ghulam Muhammad considered oneself above the system. Like the former, who dismissed premier Nazim-ud-din and dissolved the constituent assembly, the latter did so in a more technical and strategic way. Sikandar Mirza ousted all those politicians from the system who were dissident to his ideas. To substantiate this, he made a new Republican Party and encouraged Dr. Khan Sahib to propagate its goals, aims and objectives. For this purpose, he discredited the role of Muslim League.²⁹

²⁶Mustafa Choudhury, *Pakistan-Its Politics and Bureaucracy* (New Delhi: Associated Publishing House, 1988), 176.

²⁷*Ibid.*, 139.

²⁸ In *Research on Bureaucracy of Pakistan* Ralph Braibanti says; That CSP is the term designated for a small group within the public services. P, 97.

²⁹Choudhury, *Pakistan-Its Politics and Bureaucracy*, 102.

To restrict the policies and curtail the power of C.S.P officers, various commissions have been formed. The first Pay and Service Commission was formed in 1948 headed by Chief Justice Supreme Court Justice Muhammad Munir. The final report of the Commission realized that the remuneration of the C.S.P. officers might be scaled down.³⁰ But the modifications analyzed by the Commission could not reach a stage to be materialized. The fact remained that the power structure of bureaucrats, generally, and C.S.P. officers, specifically, was so strong and compact that it did not allow the system of bureaucracy to be reformed.

Military:

The Garrison state established by Sikhs in Punjab in 19th century has social and political repercussions. After the annexation of Punjab in colonial India, by Colonial Masters, the militarization of province kept on continued in the light of the Great Game. This militarism in Punjab had entrenched impact on the society of India. After the partition of united India in 1947, the impact of this militarism spilled over to both states. In Pakistan, this militarization in Punjab, imparted dominance to army to interfere in the civil set-up and to derail the democratization process repeatedly. In India, this militarization gave genesis to militant ethno-nationalist movement of the Sikhs in 1960's.³¹

After the demise of Ranjit Singh in 1839, the militarism in Punjab was enhanced. Later on, on one hand, the war of succession and the political feuds; and on the other hand, the aggrandizement in the military strength induced the British army to attack the Sikh confederacy. The first Anglo-Sikh War in 1846 annexed some parts to the British Empire. The second Anglo-

³⁰Government of Pakistan, *Report of the Pakistan Pay Commission* (Karachi: Governor General Press, 1949), 28.

³¹ Tan Tai Yong, *The Garrison State: The Military, Government and society in Colonial Punjab, 1849-1947* (London: Sage Publications, 2005), 20.

Sikh war in 1849, annexed the whole Punjab.³² Resultantly, the Sikh confederacy was crashed and the hegemony of British was established in Punjab.

After the annexation of Punjab, the Governor General Dalhousie proclaimed the demilitarization of this region. This demilitarization process helped the colonial masters, in a way, to curtail the possibilities of revolt against the British from the unified platform. At the same time, this disbandment of large number of soldiers intensified the quantity of unemployment. To resettle the issue of unemployment, a large number of people including Sikhs, Punjabis and Pathans were recruited in the British Army.

In the mid-19th century, the modification of British Army and the international Scenario went side by side. On one hand, the 1857 event drastically transferred the complete military power from the hands of the Indians to that of Britishers.³³ Similarly, in the light of this event of 1857, Peel Commission (1859) came under the chairmanship of major General Jonathan peel. The Commission brought some modification in the Indian Army. Before 1857, the strength of the Indians in British Army was five times to that of Britishers. The committee formed under this Commission reduced the strength of the Indians to ratio 2:1 to that of Britishers. Moreover, the British could not risk entrusting the local Indians military man to use powerful weaponry.³⁴ On the other hand, the British masters perceived the threat of the Russian expansion towards India. This whole phenomenon Of Russian expansion and its counter strategies by British in 19th century is termed as Great Game. In the words of Stephen Tanner, ‘the Great Game for central Asia was about to burst into open warfare, with India the prize and Afghanistan the playing

³²Ibid., 35.

³³HasanAskariRizwi, *The Military and Politics in Pakistan, 1947* (Lahore: Sang-e-Meel Publication, 2000) 36.

³⁴ Dr. Noor-Ul-Haq, *Making of Pakistan: The Military Perspective* (Islamabad: National Institute of Historical Research, 1993), 2-3.

field'.³⁵ Moreover, during the Great Game, Afghanistan remained as a buffer zone between British imperialism and Russian expansionism. To counter the Russian expansion in effective way, Eden Commission (1879) came to India. This Commission intensified the recruitment of Indians in Indian Army. This Commission actually transformed the recruitment base from territory to race.³⁶ The term 'race' is signified for a specific ethnic group. Later on, this concept gave emergence to 'Martial Race' theory. The narrative principle of the theory stressed on the natives of Punjab including Punjabis, Sikhs, Pathans and Gurkhas were recruited in the military. This huge recruitment in the military set-up fulfilled the British aim to counter the Russian expansion towards India.³⁷ This recruitment of natives on mass scale also benefitted the local in the sense of employment. In 1907, the Anglo-Russian agreement, abandoned the perception of Great Game but the British Raj still kept on continue this recruitment on mass scale level.³⁸

Once the Great Game menace disappeared, the colonial master might have checked the military recruitments. As discussed aforementioned, the recruitment process became more energetic to work. So, such a large number of Army personnel were used by the colonial masters for their own interest. In similar connotation, the First World War was fought in the field of Europe. This War had no direct relation with India. But still a huge proportion of Indian Army men were sent from Punjab to Europe to fight unprecedentedly. Among these military personnel sent to Europe, 136,000 men, comprising nearly 27% were Muslims of the Punjab.³⁹ This

³⁵ Stephen Tanner, *Afghanistan: A Military History from Alexander The Great to the Fall of Taliban* (New York: DA CAPO Press, 2002), 136.

³⁶ Noor-Ul-Haq, *Making of Pakistan*, 6.

³⁷ *Ibid.*, 7.

³⁸ Yong, *The Garrison State*, 28.

³⁹ Cohen, *The Indian Army*, 69.

unconditional collaboration on the part of the Punjab Army against central allies strengthened the rural-military elite relation in post-War period.⁴⁰

At the advent of Second World War, the British masters utilized its energies tactically to gain the support of Indian political parties. In this regard, the British modernized only that portion of military that could possibly 'reinforce the British troops outside India'.⁴¹ Moreover, large number of new military officers was recruited on emergency basis. These officers were commonly called as Emergency Commission Officers. Zia-ul-Haq was one among those who was recruited in World War II, under this program of emergency.⁴²

After World War II, when the division of India was ensured, Muslim League raised the demand of division of army. Muslim League point of view was that independence with the united military was but an illusion. Liaqat Ali Khan ignited this issue, exposed to viceroy and emphasized the division of Indian Military.⁴³ The British top brass of military force were against the division of the military at that particular stage. Field Marshal Claude Auchinleck (Supreme Commander, 1947) was in the mood to run the military amalgamatedly. He exposed his view by portraying that the division of such army would readily generate chaos and strife between the two neighboring states.⁴⁴ This would result in the institutional devastation at that very stage. The Congress insistently focused on the united military for a purpose that India might not be divided. But for the Muslim League leadership, division of India without the division of Army was not acceptable.

⁴⁰ Yong, *The Garrison State*, 99.

⁴¹Noor-Ul-Haq, *Making of Pakistan*, 44.

⁴² Stephen P.Cohen, *The Pakistan army* (London: University of California Press, 1984), 55.

⁴³Rizwi, *The Military and Politics in Pakistan*, 52.

⁴⁴*Ibid.*, 53.

The proposal of Muslim League, at last, gained assent. So, to materially manifest the process of division of military, Joint Defence Council (JDC) was made. The proportion of assets decided by JDC was of a ratio 64:36 to India and Pakistan respectively.⁴⁵

The story of military division between Pakistan and India is problematic and full of injustices. On empirical basis, it can be stated that after the creation of Pakistan, the state needed 13 Generals, 40 brigadiers and 53 colonels but the state contained only 1 General, 2 Brigadiers and 6 colonels.⁴⁶ Moreover, out of the total Indian Army's strength of 461800 soldiers, Pakistan had to inherit 150,000 soldiers, which was expected to include 4000 officers. Following the partition, only 2500 officers were available. So, Pakistan's higher authorities recruited some 500 British officers to compensate the situation.⁴⁷

Regarding the stores and equipment promised, India had to give 170,000 tons to Pakistan. Contrast to this, the complete materials was not dispatched to Pakistan and the sent materials were not working to be used properly. Most of the equipments were obsolete.⁴⁸ At the cost of such an unjust division, the Rawalpindi GHQ faced suffocation because of two factors. Firstly, the resources to be imparted to Pakistan as a consequence of military division were insufficient; and secondly, the resources, funds and military personnel assigned for Pakistan was delayed. Such kind of situation has been rightly depicted by Pervaiz Iqbal Cheema in these words, 'thus the new GHQ was nothing more than a building with scant furniture'.⁴⁹ Fazal Muqeem Khan

⁴⁵ Cohen, *The Pakistan Army*, 7

⁴⁶Fazal Muqeem Khan, *The Story of Pakistan Army* (Karachi: Government Printing Press, 1963) 222.

⁴⁷Pervaiz Iqbal Cheema, *The Armed Forces of Pakistan* (Australia: Allen & Unwin, 2002), 53.

⁴⁸ Brian Cloughley, *A History of the Pakistan Army: Wars and Insurrections* (New York: Oxford University Press, 1999), 4.

⁴⁹Cheema, *The Armed Forces of Pakistan*, 51- 52.

says about the authenticity of division that ‘Pakistan inherited an army that was little more than skeleton, but the backbone----its officers and men were safely in Pakistan’.⁵⁰

When the partition of military was eventuated, then Pakistan had to organize its own military under its own dependency and training. In this regard, initially, general directive was issued. All the brigadiers and Division Commanders were assigned to have a training mechanism for the military. Along with the general directive, the Pakistan military had but only option to follow the organizational structure of pre-partition Indian military.⁵¹

The organizational structure of military institution has been divided into corps, division and brigade. This classification in three distinguished groups gives hierarchical structure to military. From down to top position, brigade is placed, then division and lastly corps. Three or more brigades form the division and similarly two or more divisions form the corps.⁵²

The military of Pakistan, since its birth, took the responsibility of defending the state, its ideologies and forming the ideological complex for the future prospect. This deviation from the specified role and its intervention in the political arena created the culture of imbalance among institutions. Resultantly, some institutions entitled themselves as superior and efficacious, whereas; other as inferior inside state structure. The Pakistan military institution performed these three functions successfully i.e. to defend the borders, keep on high esteem the image of military and to protect the ideology.⁵³ Even during the security concerns, Liaqat Ali Khan proclaimed on

⁵⁰ Khan, *The History of Pakistan Army*, 40.

⁵¹ Ibid., 137.

⁵² Cheema, *The Armed Forces of Pakistan*, 46.

⁵³ Ayesha Siddiq, *Military Inc. Inside Pakistan Military Economy* (Karachi: Oxford University Press, 2007), 62.

8th October 1948, that the security of state dominates all the other factors, for this cause we will not grudge a moment.⁵⁴

The first Commander in-Chief of Pakistan was General sir Frank Messervy. Being the first C-in-C, he organized the structure of the higher echelon of army. It took almost six months to a year.⁵⁵ After Sir Frank Messervy, Sir Douglas Gracey became the Commander-in-Chief of Pakistan army. In the period of Sir Douglas Gracey till his retirement, no such an extra ordinary development was seen at organizational level. It was because of the fact, that Pakistan army lacked expert personnel, training centers and materials i.e. equipment. Above all the trickiest quagmire for the Pakistan's army was standard and uniform training for the military officers.⁵⁶ The real shift of the organization of the military institution took place at the time of Ayub Khan, when he became the Commander-in-Chief of the army. He emphasized the strength, training and quality of the military institution.⁵⁷

The first two military Commanders-in-Chiefs were Britishers. Later on, C-in-C of the Pakistan army was Pakistanized. The Pakistanization of C-in-C was joy for all the high commanding military officers inside Pakistan Army. When this event was about to materialized, Liaqat Ali khan addressed the Divisional Commanders at Rawalpindi. In the address, he manifested that there is possibility that the position of C-in-C may not go in the favor of senior most military generals⁵⁸ but Ayub Khan. Ayub khan, trained at Sandhurst, was pro-British. Simultaneously, there persisted a military group in West Pakistan consisting of major General

⁵⁴ Muhammad Ali, *Emergence of Pakistan* (New York: Columbia University Press, 1967), 376.

⁵⁵ Cheema, *The Armed Forces of Pakistan*, 52.

⁵⁶ Clough, *A History of Pakistan army*, 25.

⁵⁷ Cheema, *The Armed Forces of Pakistan*, 55-57.

⁵⁸ Muhammad Ayub Khan, *Friends not Master: A Political Autobiography* (Karachi: Oxford University Press, 1967), 34.

Azam Khan, Major General Akbar Khan, Lt. Colonel Saddiq Raja and others were anti-British.⁵⁹ When Ayub Khan became the C-in-C, a group inside military consisting of some civilian abettors, had planned to coup. General Gracey while leaving his position as C-in-C did not tell Ayub Khan anything about training and maintenance of army but only signified the presence of ‘Young Turks’ in army.⁶⁰ In the Constituent Assembly, the issue was discussed that with the support of the Communist and revolutionary aspirants, some military personnel including Civilian had planned to overthrow the civilian government. Moreover, they had planned to run the government on the Communist model, under the domination of army.⁶¹

Emphatically, it is absurd to say that the military was not interested in politics. Preferably it would not be objectionable to state that the power elites of military made covert strategies to affect the politics. More or less, these strategies need a systemization to be comprehended. All the events taking place in the first decade seemed irregular, but still it disclosed the intrinsic nature of potent institution to exercise its force over the other institutions. In this regard, the Rawalpindi Conspiracy was the first and foremost fiasco attempt by the military elites in 1951. In the words of Herbert Feldman ‘----after the conspiracy was unmasked, the facts were kept shrouded in secrecy from the start, not a great deal is known’.⁶²

Except this conspiracy, the military was number of times brought, constitutionally, to control the unrest. In this regard, the existing examples of 50’s in Karachi, Punjab and East Pakistan are prevalent. As a result of these quagmires; curfew, Martial law and emergency was

⁵⁹ Brigadier A.R. Saddiqi, *The Military in Pakistan: Image and Reality* (Islamabad: Vanguard Book pvt Ltd, 1996), 10-15.

⁶⁰Ibid., 35.

⁶¹Constitution Assembly (legislature) Debates, 1951, Vol.1, P.34, March 21, 1951.

⁶² Herbert Feldman, *Revolution In Pakistan: A Study of The Martial Administration* (Karachi: Oxford University Press, 1967), 37.

imposed in Karachi, Punjab and East Pakistan respectively.⁶³ Although the gruesome events were not systematically planned to weaken the representative institutions but still it has unprecedented impact on the political face of the country.

The perpetrators and accomplice of Rawalpindi Conspiracy were pointed out. As the civilians were also included in this conspiracy, so the case was dealt in ‘Special Civil Tribunal’. The culpable were punished for long term imprisonment.⁶⁴ As for as, the central player of Rawalpindi Conspiracy, Akbar Khan had close relation with Faiz Ahmad Faiz. Faiz was a leading intellectual, editor and famous for his Communist ideas. In the wake of this conspiracy, the Central Intelligence Department got a chance to capture all the progressive intellectuals with leftist ideas.⁶⁵

The first Martial law in 1951, gave an image to army in masses. This also imparted confidence to army that they could control the masses by the force of guns.⁶⁶ This was the first taste of power they experienced by imposing Governor Raj in Punjab. In this first test match, they not only succeeded but also gained favorable reputation to run the state.

The military personnel and bureaucrats were included through constitutional way after the dissolution of first constituent assembly. The then Governor General, Ghulam Muhammad, framed the ‘Cabinet of Talent’ on his own will. In this cabinet, he included various bureaucrats, retired officer and military men like Ayub Khan and Siknadar Mirza. Ayub Khan was placed on

⁶³Ibid., 38-40.

⁶⁴Clough, *A History of Pakistan army*, 29.

⁶⁵ Ayesha Jalal, *The State of Martial Rule: The Origin of Pakistan's Political Economy of Defence* (Lahore: Vanguard Book Pvt Ltd, 1991), 123.

⁶⁶Barhanuddin Ahmed, *The General of Pakistan and Bangladesh* (New Dehli: Uikas Publishing House Pvt Ltd, 1993), 6.

the post of defence fort polio; whereas, Sikandar Mirza to that of interior ministry.⁶⁷ This direct infiltration of military's and bureaucracy's elites in the political institutions was but a de-institutionalization on the face of representative institution.

In 1954 and 1955, Pakistan had joined SEATO and CENTO respectively. These were defence alliance on the part of USA to restrain the expansion of Communism.⁶⁸ Before the joining of SEATO and CENTO, Ayub Khan visited USA for military help, without the earlier assent from the cabinet.⁶⁹

These whole proceedings of alliances occurred in the wake of termination of Korean War. The end of this War, gave more opportunities to China to concentrate on South East Asia. In this regard, her infiltration in the North Vietnam and the withdrawal of French from Vietnam forced America to have regional alliance against the containment of Communism.⁷⁰ So, therefore, USA formed regional alliance in the form of SEATO and CENTO. Pakistan's tilt for these alliances has many reasons. On one hand, the religious ideocratic similarity and the Communist expansionist policy were the most proponents; whereas, on the other hand, Pakistan got military aid as well as military training in American schools.⁷¹

Ayub khan, being C-in-C, was given extension for two times. For the second time, he was extended for two years in 1958 to that of 1960. The major development taken place during Ayub Khan Period inside military was that he renewed the existing narrative regarding the training. He redefined the aims and objective of the training. Most importantly, the uniform directive was

⁶⁷ Clough, *A History of Pakistan Army*, 41.

⁶⁸ Iftkhar H. Malik, *The History of Pakistan* (London: Greenwood Press, 2008), 138.

⁶⁹ Siddiq, *Military Inc. Inside Pakistan Military Economy*, 71.

⁷⁰ Pervaiz Iqbal Cheema, *Pakistan's Defence Policy, 1947-58* (London: McMillan Press, 1990), 136-137.

⁷¹ Cohen, *Pakistan Army*, 64.

issued for a purpose to bring homogeneity in army.⁷² Before the completion of his third tenure, he imposed Martial law in Pakistan in November 1958. Consequently, the political and representative institutions came under the shadow of military power elites for the next decade.

Judiciary:

International Commission of Jurists in Athens in June 1955 has emphatically elucidated the role of judges establishing the rule of law in these words.

Judges should be guided by the Rule of Law, Protect and enforce it, without fear or favor and resist any encroachment by government or political parties on their independence as judges.⁷³

In Pakistan's history, the rule of law and writ jurisdiction of judiciary to shower its hegemony and its resistance to hinder the encroachment of power elites in their jurisdiction has no material manifestation. Judicial jurisdiction without the rule of law is like a structure performing no function. The rule of law would impart spirit and hegemony to judiciary. In simplest possible words, the rule of law means absence to arbitrariness.⁷⁴ The rule of law, the aspiration of all the modern societies, is prevalent in states where judiciary is considerably strong. The efficiency of judiciary would neither allow any individual nor any institution to perform something extra to one's jurisdiction. This would probably restrict the arbitrariness at individual level, as well as, at institutional level to hinder the imbalance of institutions.

⁷² Khan, *The Story of Pakistan Army*, 140-141.

⁷³ Justice (Retired) S. Anwar ul Haq, *Revolutionary legality in Pakistan* (Lahore: Pakistan Writers' Co-operative Society, 1993), 123.

⁷⁴ Justice Dr. Nasim Hasan Shah, 'Judicial administration', in Jameel Ur Rehman Khan, ed., *Government and Administration in Pakistan* (Islamabad: Pakistan Public Administration Research Center O&M Division, 1987), 252.

Judiciary is the institution that carries the judicial power to interpret the law. Along with this, it is arbiter that settles the dispute between citizens as well as between state and citizen.⁷⁵ At individual level, the arbitration can be perpetrated when the arbitrator is impartial, independent and does not fear the persons involved in dispute. Similarly, at state level, this arbitration is officially performed by judiciary. So, its separation from the other institutions like legislature and executive is of worth importance. Along with this, the judiciary must be independent to sustain the Rule of Law. As the objective resolution incorporates that ‘the independence of judiciary must be fully secured’.⁷⁶

Constitution, no doubt, is the track through which the nation travels upon. In Pakistan, the formulation of constitution was unduly delayed. So, the questions regarding the making of constitution were raised from the various corners of state. Some critics have even forwarded by blaming the founding father for not giving the constitution. So, it might be categorically comprehended that the creation of Pakistan was accompanied by multitude complications. In such a perturbed conditions, Quaid-i-Azam, the then Governor General, was engrossed in the solution of that problems. He had neither time nor any interest to frame a constitution single handedly.⁷⁷

This was actually against the democratic norms. Moreover, this was also scripted in the Indian independence Act 1947, that the Constituent Assembly would frame the constitution for new dominion. Therefore, the Quaid-i-Azam, too accomplished this mission and vividly declared in February 1948 that;

⁷⁵ Justice (R) Fazal Karim, *Access to Justice in Pakistan* (Karachi: Pakistan Law House, 2003), 30.

⁷⁶*Ibid.*, 31.

⁷⁷Qadeeruddin Ahmad (Retired Chief Justice), *Pakistan: Fact and Fallacies* (Karachi: Royal Book Company P.O.Box 7737, 1979), 174.

The constitution of Pakistan has yet to be framed by the constituent assembly. I do not know what the ultimate shape of this constitution is going to be, but I am sure that it will be a democratic type, embodying the essential principles of Islam.⁷⁸

After the inception of Pakistan, the task of constitution making was conferred to the constituent assembly. The constituent assembly was to have acquired the status of central legislature. Till the time of framing the new constitution, the constituent assembly had to depend on the Indian Act of 1935 and Indian independence Act of 1947, with considerable amendments. Formally, the Pakistani state was credited with the federal system and the power of the Governor General was minimized. In normal situation, he was but a titular head with some emergency power.⁷⁹ The Governor General had to make decision on the advice of the cabinet. As in province, the Governor is representative of the Governor General; so, the same formula was applied on him too at provincial level. He was also to act according to the advice of the cabinet.⁸⁰

Resultantly, the task of constitution making came to constituent assembly. The constituent assembly, after two years, developed a consensus on the Objective Resolution. This resolution actually laid the foundation of the future constitution as well as 'broad outline of its structure'.⁸¹ This resolution later on became the preamble of the future constitutions of Pakistan. To accomplish the task of constitution making, the constituent assembly formed the Basic Principle Committee. In the way of constitution making, the issues of representation in federal legislature, province-Centre power distribution and the national language seemed paramount than the other problems that delayed the progress of constitution making. The first report of the Basic Principle Committee signified that the federal legislature would consist of two houses i.e. house of units

⁷⁸Ibid., 177.

⁷⁹Chowdhury, *Pakistan---Its Politics and Bureaucracy*, 31.

⁸⁰Ibid., 32.

⁸¹Hamid Khan, *The Constitutional and Political History of Pakistan* (Karachi: Oxford University Press, 2002), 59.

and house of representative. Although it did not manifest its size and strength but the report do incorporated that the house of unit would carry equal representation from all the units.⁸² The report also provided equal power to both the houses. Moreover, it contained that the money bills would be discussed in the joint session of both the houses. In the report, the power between the Centre and provinces was distributed in three lines i.e. federal, concurrent and provincial. The federal list consisted of 67 subjects, provincial list 35 subjects and the concurrent list 37 items.⁸³ Under this report, Urdu was given the status of national language.

The report was criticized on the grounds that it carried incomplete constitutional structure.⁸⁴ The leaders of the East Pakistan rejected the draft on the basis that it would push the majority into minority in joint session.⁸⁵ The staunch criticism inflicted on the first report needed the recommendation of the constituent assembly to review the report. In this regard, the assembly formed the second Basic Committee Report.

The second Basic Committee Report again favored the two houses of legislature i.e. the house of units and the House of Representatives. This report indicated the size and strength of the two houses. The house of representative would consist of 400 seats and the house of units would consist of 120 members.⁸⁶

In the house of representative, 200 seats would go for the East Pakistan; whereas, the remaining 200 would be divided among the Punjab, NWFP, Sindh, Baluchistan and the other states of Bahawalpur, Khairpur, Tribal Areas and capital of federation. Similarly, in the house of

⁸² Pakistan, *Report of the Basic Principle Committee*, 1950, p.9.

⁸³ Riaz Ahmad, *Constitutional and Political Development of Pakistan* (Karachi: Pak America Commercial Ltd, 1981), 8.

⁸⁴ Safdar Mehmood, *Pakistan: Political Roots & Development 1947-1999* (Newyork: Oxford University Press, 2000), 38.

⁸⁵ G.W.Choudhury, *Constitutional Development in Pakistan* (London: Longman Group Ltd, 1959), 72.

⁸⁶ Pakistan, *Report of the Basic Principle Committee*, 1952, p.11-14.

units, 60 seats would be of Bengal and the other 60 would be distributed in the provinces of Punjab, NWFP, Sindh, states of Baluchistan, Bahawalpur, Khairpure and etc.⁸⁷ Such kind of distribution of seats partitioned the country into East and West. The second Basic Principle Committee report, untouched the issue of language.⁸⁸ It had received severe criticism in the first report.

The report became a hot point of criticism. It was again rejected by both the wings. The East Pakistan propagated their own lines that their numerical majority has been converted into minority by sustaining the parity during the distribution of seats.⁸⁹ The West Pakistan reacted on the report that such kind of distribution of seats would impart complete domination to East Pakistan over all other provinces.⁹⁰

In this period, Governor General, Ghulam Muhammad, dismissed Nazim u din and appointed Muhammad Ali Bogra as a new Prime Minister of Pakistan in 1953. So, the new constitutional development is seen with his name Muhammad Ali Bogra's formula. Bogra's formula is actually the appreciable report praised in almost all the corners of the country.⁹¹ According to this formula, the central legislature would consist of two houses i.e. the upper house and lower house. The upper house would consist of 50 seats. All the units would carry 10 seats. Whereas, the lower house would be based in popular representation, it would be composed of 300 seats.⁹² In this regard, East Bengal would carry 165 seats, Punjab 75, NWFP 13, Tribal

⁸⁷Mehmood, *Pakistan Political Roots and Development*, 40.

⁸⁸Ahmad, *Constitutional and Political Development in Pakistan*, 25.

⁸⁹Mehmood, *Pakistan Political Roots and Development*, 40.

⁹⁰ Dawn, 12 January 1953.

⁹¹Mehmood, *Pakistan Political Roots and Development*, 44.

⁹²Choudhury, *Constitutional Development in Pakistan*, 76.

areas 11, Sindh 19, Baluchistan 3 and the other states would acquire the remaining seats. The formula also made it clear that both Urdu and Bengali would be the national languages.⁹³

In September 1954, the constitutional assembly passed two bills. The first bill repealed the PRODA act and the other bill was related to section 9, 10, 10A and 10 B. This latter bill was actually related to the curtailment of the Governor General's power.⁹⁴ At this stage, Muhammad Ali Bogra had assured the completion of constitution making task.⁹⁵ The launching ceremony of the constitution would be held on the birth day of Quaid-i-Azam. At this point, the Governor General showered his arbitrariness by dissolving the assembly and described it 'Parliamentary Bickering'.⁹⁶ The completion of the constitution making task had been elucidated by Nasim Hasan Shan in these words.

The drafting committee prepared a draft of constitution which was sent to the printers on 18th October, so that it could be on the table of the house when the constituent assembly reconvened to discuss it on 27th October. According to the proposed constitution, Pakistan was to be declared an Islamic Republic on 1st January 1955, and the Bogra formula was integrated into document. The document although printed did not, however, see the light of day.⁹⁷

Legal battles:

Since the birth of Pakistan every resolution, commission and constitution in theory, has stressed the independence of judiciary. In practice, the judicial activism of judiciary, as an institution, is

⁹³ Ahmad, *Constitutional and Political Development of Pakistan*, 30.

⁹⁴ Choudhury, *Constitutional Development in Pakistan*, 85.

⁹⁵ Jan Mohammad Dawood, *The Role of Superior Judiciary in the Politics of Pakistan* (Karachi, Royal Book Company, 1994), 8.

⁹⁶ Wayne Ayres Wilcox, *Pakistan: The Constitution of a Nation* (New York: Columbia University Press, 1963), 179.

⁹⁷ Nasim Hasan Shah, *Memoirs and Reflections* (Isamabad: Alhamra, 2002), 51.

not smooth one.⁹⁸ Rather its smooth travel has been, time and again, interrupted by the power elites i.e. Governor Generals, civil-bureaucrats, Military echelons in the form of Martial law administrators and sometimes politicians. These encroachments by the power elites have not entrusted judiciary as an independent institution. Though its impartiality has not been demolished completely but still some cases deserve to be of great significance.

The first constituent assembly of Pakistan was dissolved in effect of two bills passed by it, as discussed aforementioned. The first bill abolished the PRODA Act; whereas, the second bill curtailed the power of the Governor General. Such an esoteric fight between executive and legislature led to gruesome repercussion of dissolution of assembly.

Tameez-u-din Khan, the then president of assembly, challenged the case in Sindh High Court under *Mandamus* and *Quo warranto*. *Mandamus* asked for that the Governor General has no authority to dissolve the Constituent assembly. The only possibility to dissolve the constituent assembly is, if its two-third majority favors its dissolution.⁹⁹ *Quo warranto* at the same time asked for that that the Governor General is not entitled to appoint new ministers.¹⁰⁰ Along with the dissolution of assembly, the governor general had also issued the warrant of Tameez u din Khan's arrest. To shun oneself from police, as well as, to defend his case, he 'disguised himself as a burqa clad woman and reached the high court through the side gate in rickshaw'.¹⁰¹ His advocate, Mr. Manzar-e-Alam, also reached the High Court but through the main gate. Now through intelligence report, the police had realized the appearance of Molvi Tameez u din and Manzar-e-Alam before the Court. So, the police took Manzar-e-Alam in safe custody. Here the

⁹⁸Ibid., 44.

⁹⁹Choudhury, *Constitutional Development in Pakistan*, 86.

¹⁰⁰ Khan, *The Constitutional and Political History of Pakistan*, 85.

¹⁰¹Syed SharifudinPirzada, ed., *Dissolution of Constitutional Assembly of Pakistan and the Legal Battle of MolviTameez u Din* (Karachi: Asia Law House, 1995), i.

Chief Justice George Constantine interfered ‘to save the situation’¹⁰² by instructing the registrar to direct the Inspector General of police to release Manzar-e-Alam.

The Sindh High Court consisting of four learned judges unanimously upheld Mr. Tameez u din’s stance and proclaimed the dissolution of constituent assembly as void.¹⁰³ The decision was soon challenged by Government in federal court. In the federal court, the advocate General proclaimed that 223A under which the Sindh Court has proclaimed a writ petition against Governor General is not a ‘valid piece of law as it had not received the assent of Governor General’.¹⁰⁴ Since the birth of constituent assembly till its dissolution, 44 amendments had been taken place in Indian Act, but none of the Governor General had ‘advanced the claim that their assent was necessary to validate bills passed by the constituent assembly’.¹⁰⁵ Similarly, when Quaid-i-Azam was the Governor General and head of the constituent assembly, two acts were passed under his signature as a president of the Constituent Assembly and not as a Governor General.¹⁰⁶ So, the proceedings show that the constituent assembly is sovereign and Indian independence Act 1947 has also connoted the same message.

The same case gave distinguished court decree in the federal court from that of the Sindh Chief Court. The basic question regarding the dissolution of the constituent assembly was ignored. All the concentration of the federal court was stuck on the point that the writ under which the Sindh high court has given jurisdiction has not received the assent of the Governor General was necessary.¹⁰⁷

¹⁰²Ibid., i.

¹⁰³Shah, *Memoirs and Reflections*, 53.

¹⁰⁴Dawood, *The Role of Superior Judiciary in the Politics of Pakistan*, 10.

¹⁰⁵Dorab Patel, *Testament of a liberal* (New York: Oxford University Press, 2000), 17-18.

¹⁰⁶Dawood, *The Role of Superior Judiciary in the Politics of Pakistan*, 13.

¹⁰⁷Shah, *Memoirs and Reflections*, 55.

Justice Muhammad Munir gave jurisdiction of this case by relating his judgment with the consequences. On the 22 April 1960, at the Lahore high court Bar Association, he said;

if the court had upheld the enforceable writs, I am sure that there would have been chaos in the country and the revolution would have been formally enacted possibly by bloodshed, a far more serious situation than that created by the in-validation of the whole legal system which the newly assembly promised by the Governor General in his proclamation could have easily validated.¹⁰⁸

The judgment of the federal court was carried by a bench consisting of five judges. It was only justice A. R. Carnelius who remained dissented the federal court judgment.¹⁰⁹ He emphasized that the constituent assembly is the sole powerful body and the court are authorized to issue writs against government. The federal court decision regarding the dissolution of constituent assembly and nomination of new members gave genesis to 'law of necessity'. Under this provision of 'law of necessity' every illegal action was legalized.

The aforementioned proceedings and the federal court decision invalidated almost forty-six Acts, which led the state to a grave situation.¹¹⁰ To fulfill such a vacuum, Governor General promulgated the emergency power ordinance IX of 1955.¹¹¹ Under this ordinance, he acquired that he would frame the constitution of Pakistan along with other provisions. He also desired to validate all the laws framed by the first constituent assembly. Under the Usif Patel case, the Chief Justice proclaimed that the 'Governor General could not validate the laws to which assent has not been accorded'.¹¹² Under this act, the person declared to be a goonda under the Sindh Goonda control Act challenged the act for it has not received the assent of the Governor

¹⁰⁸Nazir Hussain Chaudri, *Chief Justice Muhammad Munir: His life, Writings and Judgments* (Lahore: Research Society of Pakistan, University of Punjab, 1973), 21.

¹⁰⁹ Khan, *The Constitutional and Political History of Pakistan*, 86.

¹¹⁰ Dawn, 15 April 1955.

¹¹¹ Khan, *The Constitutional and Political History of Pakistan*, 89.

¹¹²Shah, *Memoirs and Reflections*, 59.

General.¹¹³ Moreover, the court emphatically described that the authority of the constitution making could not be solely entitled to the Governor General.¹¹⁴ Therefore, a representative body must be convened to validate the invalid laws or frame the new constitution.¹¹⁵

Institutionalization:

Once the creation of Pakistan was materialized, then the sacrifices of those, who had struggled for the achievement of this state, ran over once for all. The creation of Pakistan meant that the Muslims of United India might implement their teachings independently. The biasness of the Hindus had left no room for Muslims to have expressed their views. These injustice exhorted Muslims to succeed in achieving an independent state. This rhetoric remained political slogans and shattered the spirit of those who had sided with Pakistan Movement. The state became a symbol of haunting injustice. The state machinery was controlled by small group of culturally compact and socially blended political elites,¹¹⁶ who were more loyal to their personal interests rather than the state one. The judges became subordinate to the executive. Consequently, the institutional strength of military and bureaucracy raised and that of judiciary and legislative faded away. This institutional imbalance has pushed Pakistan to an unending set of quagmires; the derailment of democracy, time and again, is top listed.

In the beginning, Jinnah, Liaqat Ali Khan and civil service made an approach to Pakistani politics.¹¹⁷ Although Jinnah believed in the incompetency of the politicians, but after his demise this gap of leadership was filled by Liaqat Ali Khan. Till the assassination of Liaqat Ali Khan in 1951, no direct political role of military was seen in the politics of Pakistan. After his

¹¹³ Khan, *The Constitutional and Political History of Pakistan*, 90.

¹¹⁴ . Shah, *Memoirs and Reflections*, 62.

¹¹⁵ Dawood, *The Role of Superior Judiciary in the Politics of Pakistan*, 20.

¹¹⁶ Stephen P. Cohen, *The Idea Of Pakistan* (Washington D.C: The Bookings Institution, 2004), 69.

¹¹⁷ Ashok Kapur, *Pakistan in Crisis* (London: Routledge, 1991), 23.

assassination, the army formed an alliance with bureaucracy and started interference in the politics of Pakistan latently. Later on, this latent encroachment was crystallized into direct interference in 1954.¹¹⁸ Consequently, a strong alliance was made between the bureaucracy and military. This alliance not only strengthened their respective institutions but also weakened the political institutions.

Here, the question rises that Quaid-i-Azam being an inspirational leader, did not institutionalized political leadership in Pakistan except Liaqat Ali Khan. Moreover, he was aware of the modern tools and techniques regarding democratization process, but still he preferred the bureaucracy to have hands in running the political institutions. As discussed aforesaid, that after the demise of Quaid-i-Azam, the leadership vacuum was filled by Liaqat Ali Khan. After the assassination of Liaqat Ali Khan, the nation lacked the trusted and mature politicians to fill the gap. Resultantly, the power went in the hands of bureaucratic military alliance. So, this ongoing political scenario helped in the institutionalization of authoritarianism at the cost of democracy.

The root of authoritarianism was planted, actually by the leadership of Muslim league, who were part of the power structure. These power elites toppled the successive government of Punjab, NWFP and Sindh led by their regional leaders i.e. Khizar Hayat, Dr. Khansb and Ayub khorro respectively. To cover these provincial governments with the dress of Muslim League, all the governments were dissolved at respective time by imposing various allegations of mal-administration, misconduct and treachery. Later on, the pro-Muslim League governments were installed in the form of Abdul Qayyum Khan in NWFP and Mian Mumtaz Dultana in Punjab.¹¹⁹

¹¹⁸Ibid., 20.

¹¹⁹ Lawrence Ziring, *Pakistan: At the Cross Current of History* (London: Oneworld Publication, 2003, 48.

To legalize the successive dissolution of provincial governments, the Centre had passed an Act, called PRODA, in 1949. PRODA was basically the knife through which those politicians were slaughtered who were perceived as detrimental to the process. The utilization of PRODA was not instrumentalized impartially for all those who were harmful to system. Contrast to it, this knife was arbitrarily used against the solely political opponents. For instance, Nawab of Mamdot was removed and disqualified as a Chief Minister of Punjab for failing to maintain the law and order situation. A PRODA Act was filed against Nawab of Mamdot.¹²⁰ Moreover, this purge from the political set-up has more connotation of provincial rivalry at party level rather than its bad performance. Moreover, new Prime Minister, Feroz Khan Noon, became the Chief Minister of Punjab without being the member of legislature.¹²¹ This is the way through which, the power structure has affected the process of political institutionalization in Pakistan. The power elites having their own judgments, justification and certificates, notified illegal as a legal and vice versa.

Similarly, the story of Sindh political development, in no way differs from that of Punjab in 1953. In Sindh, Ayub Khorru, the legend politician was disqualified on the charges of mal-practice.¹²² In the words of Zarina Salamat, Ayub Khorro was ousted under PRODA because he was running the political party in Sindh against the will of the Centre. Centre disqualified him for a purpose to restrain him from coming elections.¹²³

The operationalization of the PRODA Act brought undesired repercussions for the democratization process. Any of the five persons with Rs. 5000, could file a case to Governor

¹²⁰Ayub Khan, *Friends Not Masters*, 49.

¹²¹Zarina Salamat, *Pakistan 1947-58: An Historical Review* (Islamabad: National Institute of Historical and Cultural Research, 1992), 82.

¹²²dawn, 23 January 1951.

¹²³Salamat, *Pakistan 1947-58*, 83.

General or Governor of respective province against any current or ex-minister. Consequently, a time came when in Sindh all the ministers except only one¹²⁴ were under the scrutiny of this agonized law. The exoteric purpose of the PRODA was to curtail the corruption but esoterically it was used as a political weapon¹²⁵ for politicians. Here, the power elites, in the form of Governor General and Governors and exercised their absolute power to curb the representative bodies by inflicting various charges against them.

The politicians depended on the experienced bureaucrats due to lack of their constituencies. In this regard, they formed a cordial relation with the civil bureaucrats¹²⁶ rather than the people of their concerned constituencies. After the assassination of Liaquat Khan, the power was transferred from the career politicians to that of bureaucrats. The Governor General, Ghulam Muhammad, was positioned on the pinnacle position of this new power structure. Ghulam Muhammad, being a bureaucrat had 'no appetite for democratic practices'.¹²⁷ After this specific period, the political institutions started weakening at the cost of strengthening the non-political institutions. In the words of Ayesha Jalal that;

The dominance of the non-elected institutions was a result of a concerted strategy by the higher echelon of bureaucracy and military to exploit rivalries among Pakistani politicians and systematically weaken the political process by manipulating their connection with the centers of the international system in London and Washington.¹²⁸

¹²⁴ Keith Callard, *Pakistan: A Political History* (Newyork: Macmillan,1957),69.

¹²⁵ Feldman, *Revolution in Pakistan*, 70.

¹²⁶ Mohammad Waseem, *Politics and the State in Pakistan* (Lahore: Progressive publishers, 1989), 89-90.

¹²⁷ Ayesha Jalal, *Democracy and Authoritarianism in South Asia: A Comparative and Historical Perspective* (Lahore: Sang-e-Meel Publications, 1995), 52.

¹²⁸ *Ibid.*, 54.

In 1953, Ghulam Muhammad ousted the Prime Minister, Khwaja Nazim U Din from the office of premiership, on the basis of incapability to cope the state challenges.¹²⁹ He brought a new Prime Minister, Muhammad Ali Bogra.

Now the constituent assembly had almost accomplished its task. In September 1954, the assembly passed two bills in haste. One was the repeal of PRODA and other was related to the curtailment of the power of Governor General by amending 9, 10A and 10B of the prevalent Indian Act of 1935. These developments were not favored by the Governor General, so he arbitrarily dissolved the constituent assembly.¹³⁰ Such kind of unprecedented behavior, in higher circle, might affect the institutionalization process at institutional level, as well as, state level. This episode of exercising the power has pushed the representative institutions towards fragility. This would also pave the way for the derailment of democratization.

The support of the apex court for the dissolution of the constituent assembly was more dangerous than its dissolution. Justice Muhammad Munir's decision in the favor of Ghulam Muhammad exposed the death of judiciary. Followed by this event, the judiciary lost its spirit, tempo and hegemony to be encroached by power elites easily. This culture of penetration in Judiciary, through illegal ways, remained continue for long time. Moreover, judiciary's partial role in the aforesaid proceedings has also collapsed the justice system in Pakistan. To rephrase the above discussed phenomenon, it can be stated that the power elites of bureaucracy and judiciary had combinedly dissolved the 'will of the people' by dissolving the constituent assembly. Moreover, all the power elites of power structure have amalgamatedly abetted in the

¹²⁹Callard, *Pakistan: A Political History*, 135.

¹³⁰*Ibid.*, 138.

act of dissolution of Constituent Assembly. For instance, the bureaucrats dissolved the assembly, Army latently supported and Judiciary legalized its dissolution.

With the dissolution of the constituent assembly, a new cabinet was formed. The premier of the previous cabinet, Muhammad Ali Bogra, became its new Prime Minister. Now the new cabinet was, constitutionally, to be framed by the Prime Minister. But it was established by the Governor General, Ghulam Muhammad. The new cabinet was termed as 'Cabinet of Talents'.

The new cabinet was composed of talented minister who were more or less public officials.¹³¹ At this time the influx of the bureaucrats, industrialist and military personnel flew in the political arena. All the portfolios were distributed by Governor General according to his will. The key positions of the state machinery were rewarded to his close friends.¹³² Ayub Khan was given defence ministry and to Sikandar Mirza interior ministry.

The influx of large number of bureaucrats and military officers got involved to capture the higher positions in political system. These bureaucrats and military personnel made an understanding and cordial relation to run the state machinery efficaciously. Moreover, these power elites, working inside system, formed intimacy with the army institution to have strong back. This strong support from the military institution towards these power elite echelons bestowed them power to have arbitrariness and discretion in the decision making process.

The resignation of Ghulam Muhammad gave chance to Sikandar Mirza to occupy the top position of Pakistani politics. With the coming of Sikandar Mirza, to the position of Governor General, the penetration of army in politics intensified. Sikandar Mirza, too, depended more on the institution of military than that of civil society, peoples, political participants or political

¹³¹Ziring, *Pakistan: At the Cross Current of History*, 71.

¹³²Rizwi, *The Military and Politics in Pakistan*, 72.

parties. Army as an institution supported Sikandar Mirza for its material gains and in response Sikandar Mirza gave place to army, as an institution, in the politics of Pakistan.¹³³

Sikandar Mirza, later on, not only made ground for the military coup but also proclaimed its declaration. Later on, some of the military personnel consisting of Lt. General Wajid Ali Burki, Azam Khan and Khalid M. Sheikh visited president house. They demanded Sikandar Mirza to resign from the position of presidency and vacate the post for Ayub Khan.¹³⁴ Sikandar Mirza followed the directions and was exiled from the state. Now the state was directly run by the Martial law, under Martial law administrator. The Supreme Court again under the framework of 'law of necessity' legitimized the action. The comprehensive analysis of this development and its repercussion would be discussed in the following chapter. In a nut shell, the power elites who comprised the power structure upheld one another cause to secure their personal interests rather than that of the state or institutions.

¹³³Siddiqa, *Military Inc. inside Pakistan Military Economy*, 70.

¹³⁴Rizwi, *The Military and Politics in Pakistan*, 83.

Chapter # 3

Power structure and institutionalization in Pakistan, 1958-69

Democracy or democratic government has its distinctive attributes which are reflected by the society in which it works. These attributes may range from representation of people at policy making level, political participation, freedom of speech, and electoral process to devolution of power to units and minorities. Adverse to this, in Ayubian regime, political participation was banned and pseudo electoral process and political representation was perpetrated in the form of Basic Democracies. This controlled democracy only benefitted those who were already part of the power structure.

Bureaucracy:

In 1958, Martial law was imposed and the state structure came under the direct supervision of military. According to the praetorian accounts, the civilian government had failed to run the state machinery efficaciously. Along with this, the corruption and malfunction was rampant in both the higher and lower circles. To put an end to this ghost of corruption, praetorians stepped down in the political arena with the intention to make efficient government and to end the corruption.

In beginning, the new regime with new power structure had popular support on mass scale level. It was because of the fact that; firstly, military being an institutionalized institution, had paramount position in the minds of the people. Secondly, it had not been experienced on central level. And thirdly, the faltering government administration of the first decade had made the people fed-up with poor governance.

To perform satisfactorily, Ayub Khan's prime tasks were to abolish corruption and make an effective government. To achieve this goal, he exercised the power by formulating his own techniques. Before the Ayub regime PRODA had been enforced by the executive authority to restrict the public representatives to a particular point. Ayub Khan kept on continue the same process of retraining the role of the political leaders and public representatives through PODO (Public Officers Disqualification Order). PODO was actually the extension of PRODA. Under the act, any public officer found guilty of misconduct was treated by tribunal of the committee consisted of two members. The savage part of the act was that any person could file a case against any public officer without submitting any kind of fee.¹ Three months after the operationalization of PODO, another act was also passed in 1959. This was termed as EBDO (Elective Bodies Disqualification Order). The function of EBDO was similar to that of PODO but with some distinguished changes. EBDO was applicable to legislatures and elective bodies. In this order 'the public could not ask for the enquiries to be conducted'.² Moreover, a special tribunal organized for this purpose would proceed the case.

Similarly to pressurize bureaucracy, Ayub Khan also framed the Screening Committee to analyze the scrutiny and misconduct of the bureaucrats and CSP officers. The Screening Committees were directed to analyze the malpractice, misconduct and corruption of the civil servants and CSP officers. The civil servants had an option to defend themselves against the charges inflicted on him. In case, he was found guilty, he would be penalized. Before the Ayub regime, the CSP officers had constitutional protection to defend themselves. This provision was

¹Irfan Ur Rehman Raja, *Administration: Its Theory, History and Practice with Special Reference to Pakistan* (Lahore: Catapult Publishers, 1976), 160.

²Ibid., 160.

also prevalent in 1956 constitution.³ Ayub Khan in 1959 removed this provision through presidential order.⁴

The screening committee, assigned by Ayub Khan, inflicted various charges of corruption and misconduct on the CSP officers. In the light of this corruption and misconduct, some 2000 civil servants were either punished or dismissed. Along with this, Ayub Khan also brought 272 military officers to civilian setup to run the civil departments.⁵ Initially this infiltration of large group of military trained administrators to the civilian departments marginalized the influence of bureaucracy in state machinery. Moreover, the flow of these military qualified officers to the civilian administration realized the CSP cadre that the army could not run the state without bureaucracy.

Though the bureaucracy was pressurized by scrutinization process, but still its presence was inevitable in running the state machinery. To substantiate this, the Second Pay and Service Commission started its activity in Ayub regime. The Commission was led under the Command of Chief Justice A.R. Cornelius. The Commission gave its report in 1962 with a judgment to 'abolish the CSP cadre and creation of seven tiered Civil Service Structure'.⁶ The Commission has also criticized the power structure of highly placed echelon in bureaucracy in solid words.

³Government of Pakistan, *Constitution of the Islamic Republic of Pakistan* (Karachi: Government Printing Press, 1956) Article, 181.

⁴Henry Frank Goodnow, *The civil services of Pakistan: Bureaucracy in a New Nation* (Karachi: Oxford University Press, 1969), 254.

⁵Mustafa Choudhury, *Pakistan- Its Politics and Bureaucracy* (New Delhi: Associated Publishing House, 1988), 140.

⁶Mumtaz Ahmed, *Bureaucracy and Political development in Pakistan* (Karachi: National Institute of Public Administration, 1974), 75.

The report had analyzed the pay, privileges and promotion of the CSP officers and its comparison to the especial Servants.⁷

The Commission had also highlighted the role of the colonial structure of bureaucracy. In colonial India, the District Commissioners were assigned for a special purpose of controlling the people. The same practice of hegemony over the people has been unchangeably continued. The District Commissioners are the ruler of their concerned district. The judgment of the Commission was unacceptable to CSP officers. Two CSP officers, who were already part of the Commission dissented the majority decision. Eventually the case went to Ayub Khan. Ayub Khan framed another committee to solve the issue. The new committee was headed by that CSP officer, who was dissent to the reforms noticed by previous committee. The issue was later on, raised in the National Assembly. The members of the national assembly emphasized to circulate the report of the Pay and Service Commission. But the report proved on an official secret till the imposition of Martial law in 1969.⁸ Moreover, from 1947-62, almost 28 commissions were formed to organize the structure and other administrative changes in the civil services of Pakistan. Out of these 28 commissions, 19 have been headed by the CSP officers.⁹

The force exclusion of the politicians from the political arena and the strict scrutinization of the CSP officers have two significances. Firstly, the exclusion of politicians through proper channel helped the president to demolish those politicians who might create hurdles in the way of military regime. Secondly, he dismissed some CSP officers but pressurized whole the other

⁷Government of Pakistan, *Report of the Pakistan Pay and Service Commission* (Karachi: 1962), p.14.

⁸Ahmed, *Bureaucracy and Political Development in Pakistan*, 75.

⁹Ralph Braibanti, *Research on the Bureaucracy of Pakistan: A Critique of Sources, Conditions, and Issues, With Appended documents* (Durham, N.C: Duke University Press, 1966), 214.

CSP cadre. These tactics helped him to overcome both the bureaucracy and representative institution.

Till the Martial law persisted, Ayub Khan's performance was despotic. As soon as the Martial law regime came to an end, he had to depend on either bureaucracy or politicians to remain in power. Although he made a king party i.e. Convention Muslim League and acquired its presidency in 1963.¹⁰ But he also made an alliance with the bureaucracy. The latter alliance was more favorable for Ayub Khan than the former one. In the words of Mushtaq Ahmad, 'a bureaucracy is the political party permanently in power'. So, in the Ayub regime, the political leaders were strategically sided. Resultantly, only CSP officers remained on the scene to decide the future of the huge masses, with the collaboration of the military.

The nexus developed with bureaucracy was important for Ayub Khan in the way to fill the vacuum created by the political parties and politicians. The military, being inexperienced, in the field of societal administration solely relied on the bureaucracy. Here, the military regime did not apologetically made compromises with the bureaucracy. Contrast to this, the bureaucracy was initially pressurized and exposed to various challenges¹¹ as mentioned earlier. Whereas, the bureaucracy supported the BD system and Rural Development program for a purpose to make compromise with the dictatorial regime of Ayub Khan.¹²

Both the organized organs of the state machinery that is bureaucracy and military became in direct nexus to run the state. In this period, both these institutions escaped their selves from

¹⁰SafdarMehmood, *Pakistan: Political Roots & Development 1947-1999* (Newyork: Oxford University Press, 2000), 121.

¹¹SaeedShafqat, 'Pakistani bureaucracy: Crisis of Governance and Prospects of Reforms' *The Political Development Review* 38:2 Part II, Winter 1999, p. 1004.

¹²Ibid., 1004.

the accountability of the political leadership. It was because of the fact that the states government was owned by military men and the policy making was followed by the higher echelon civil bureaucrats. In short, Pakistan was run by the top military and civil bureaucracy echelons during Ayub regime.¹³ So, both the institutions cemented each other's institutional stake at state level.

The most important thing during this period is that the representative institutions were neither allowed to participate nor fomented its growth. The representative institutions were placed at the lower ebb and the task of policy making was assigned to the bureaucracy combined with military. Along with this, there still persisted a disparity in the proportion of bureaucracy between East and West Pakistan. According to an estimate, since 1960-69, almost 66 bureaucrats influenced the policy making process. Out of these only 3 officers were from East Pakistan.¹⁴ The influence of the bureaucratic class in policy making, forced Bengalis to have a strong agitations for equal number of bureaucrats and CSP officers at state level.

Military:

Ayub Khan was the first Pakistani Commander in Chief who was appointed in 1951. When his tenure was about to end in 1954, he was given another extension. His third extension in 1958 was given for two years. The extension of the Ayub Khan's tenure and the political scenario of the state has rightly depicted by General Gul Hassan Khan. He says that; 'This was the peak of the political turbulence in the country, and undoubtedly his term was extended not without a motive by the authorities then in power'.¹⁵

¹³Tahir Amin, *Ethno- National Movements of Pakistan: Domestic and International Factors* (Islamabad: Institute of Policy Studies, 1988), 81.

¹⁴Choudhury, *Pakistan- Its Politics and Bureaucracy*, 162.

¹⁵Gul Hasan Khan, *Memoirs of Let. Gen. Gul Hasan Khan*(New York: Oxford University Press,1993), 131.

The military could no more wait to remain in barracks. Although the political situation of the state was in faltering position, but the military coup cannot be categorized as asymmetrical. To make this action publically rational and logical, Ayub Khan blamed the politicians for instability. Although he was right in his observations of political instability but the sole liability could not be put on politicians. The sole defamation of politicians on the part of Ayub Khan went around one single point to alienate the politicians from the political arena. He knew that politicians would again throw him, if remained uncontrolled. So, to tactically tackle this problem, he gave minimal chance for politicians to participate in the political activities. All the legislatures were dissolved and Political parties were banned. Such kind of atmosphere conferred a chance to those apolitical people who lacked agenda and crystal clear vision about their future intentions. Moreover, to hinder the far sighted politician, through a legalized way, an ordinance was passed. This ordinance, known as EBDO restrained the politicians from active participation in political affairs.¹⁶

After the imposition of Martial law, Ayub Khan at once resigned to the office of Commander in Chief. He adopted the position of a Chief Martial Law Administrator. The position of the C-in-C was given to General Muhammad Musa. He being junior to few Generals¹⁷ was upgraded to this position by discretion of Ayub Khan. The selection of General Muhammad Musa to the position of C-in-C helped Ayub Khan in two ways. Firstly, Ayub Khan was in need of simple and loyal military C-in-C.¹⁸ Secondly, Ayub Khan wanted to run the

¹⁶Goodnow, *The Civil Services of Pakistan: Bureaucracy in a New Nation*, 266.

¹⁷Khan, *Memoirs of Let. Gen. Gul Hasan Khan*, 134.

¹⁸Brian Cloughley, *A History of the Pakistan Army: Wars and Insurrections* (New York: Oxford University Press, 1999), 54.

‘strong army under weak command ultimately accountable to him’.¹⁹ In this regard, when the clash appeared between C-in-C and COS, Ayub Khan sacked COS for a purpose to save General Muhammad Musa.

The military regime occupying whole the system and state structure aspired to keep its image high and paramount in society. So, initially everything was tackled sharply. In the same line, twenty three Commissions were formed to bring reforms in various departments and public sectors. In very short span of time, people saw visible improvement at different level ranging from national affairs to that of local issues i.e. Price drop and so on.²⁰

Once the Martial law was imposed in 1958, the growth of the political processes and representative institutions impeded. He proceeded such kind of system that was ostensibly democratic i.e. basic democracy system. Under this system, 80,000 people would be elected on non-political basis. These 80,000 basic democrats were, later on, entrusted with the power of Electoral College. Through this system, every basic democrat having distinguished philosophy and thinking level lacked the common Agenda. This helped Ayub Khan by selecting himself as a president for the next five years. Through the help of this system, it was really easier for Ayub Khan to captivate the single individual to acquire his interest rather than a political party.

After the Martial law, whole the state structure came under the domination of military. To substantiate this, three Generals became the part of the cabinet. Moreover, the state had been

¹⁹Brigadier A.R. Saddiqi, *The Military in Pakistan: Image and Reality* (Islamabad: Vanguard Books pvt Ltd, 1996), 55.

²⁰Ibid., 59.

divided into three zones i.e. East Pakistan, West Pakistan and Karachi. Each zone was run by one Martial Law Administrator.²¹

In reality Martial Law Administrators had no other option to run the state but only to acquire the support of the military institution. Therefore, the Martial Law Administrators, directly or indirectly, depended on the participation of military. Along with the reliance on military institution, Ayub Khan knew the complexities of state structure and its administration. Therefore, he called a meeting of eight permanent secretaries. These eight secretaries had formed an advisory council in 1958, on the will of the president. In the very first meeting headed by Martial Law Administrator, it was decided that the state administrative setup would be run by the civil and military administrators collective.²²

Though Ayub Khan had the support of the military institution esoterically, but he aspired to separate the Martial law administration from that of the military. In this regard, he after acquiring the position of Chief Martial Law Administrator quit the position of the Commander in Chief. The purpose of this step aimed to civilianize the Martial law. He, in 1960's, even emphasized that the military has been to barracks.

The historical analysis of Ayub regime shows that Ayub Khan had cordial relation with the military institution. These relations materially helped both the president and the military institution. The military remained intact with Ayub Khan and supported the implementation of his policies. In reward, they were assigned with number of privileges like promotion, allocation of lands and appointment on the civil postings, after retirement. In this context, General Muhammad Musa, who gave services as a Commander in Chief for eight years was appointed

²¹Ibid., 54.

²²Ahmed, *Bureaucracy and Political Development in Pakistan*, 98.

the Governor of West Pakistan after his retirement.²³ General Yahya Khan became Commander in Chief after the retirement of General Muhammad Musa. Ayub Khan, when intended to go abroad and resign the office of president, he readily transferred all the power in the hands of Yahya Khan. The 1962 constitution under article 16 says that if president could no more perform because of illness or any other reason, then the president of the assembly would act as a president.²⁴ Moreover, Ayub Khan also helped the military institution by infiltrating large number of military personnel to civilian bureaucracy. Ayub Khan notified a specific quota for military officers to serve their duties in the civilian setup. In this way, he also recruited eight captains in the CSP cadre in 1961-62.²⁵

Along with internal turmoil, the border issues of Pakistan are prevalent since its birth. In foreign retrospect, Pakistan had various ideological and territorial differences with India. It happened in 1965, that Pakistan launched a guerrilla operation Gibraltar, with aim to spring up insurgency in Kashmir. This Gibraltar operation had psychological effect in the sense that its success stories were started on radio. But the operation got failed because of the fact that Indian sealed all the entrance and exit points through which the guerrillas had been infiltrated.²⁶ Dev Sharma claims that to accomplish the task of springing up insurgency in Kashmir, Pakistan army had sent almost 5000 military trained guerrillas.²⁷

Inside the military institution, the organization of the institution was working well. In November 1954, Pakistan army had launched a large parade known as *Ex November Handicap*.

²³Hasan Askari Rizwi, *The Military and Politics in Pakistan, 1947-1997* (Lahore: Sang-e-Meel Publication, 2000), 104.

²⁴Jan Mohammad Dawood, *The Role of Superior Judiciary in the Politics of Pakistan* (Karachi, Royal Book Company, 1994), 27.

²⁵Charles H. Kennedy, *Bureaucracy in Pakistan* (Karachi: Oxford University Press, 1987), 122.

²⁶Saddiqi, *The Military in Pakistan*, 92.

²⁷Dev Sharma, *Tashkent: A study In foreign Relation With Documents* (Benaras: Gandhian Institute of Studies, 1966),5-6.

In this programme, the army showered their exercise. The programme continued for almost three weeks to a month consisting of 5000 troops. There were also prevalent numerous foreign guests. The performance of Pakistani army at this spot impressed the Commander in Chief as well as the foreign guests. This was really a land mark in the military history of Pakistan.²⁸ Similarly, the same kind of exercise name *Agility* was also staged in 1956. The officials of both the SEATO and CENTO were invited to attend this parade.²⁹ In 1960, Pakistan army arranged a tank maneuvers named *Exercise Tezgam*, this exercise had exposed the strength and fire power³⁰ of Pakistan army.

Such kind of exercise on such a large scale had an arch psychological impact both outside and inside the state. Outside the state; it showered its capabilities to its foes and inside the state; it reflected the superiority of military institution over the others. The practical evidences of its superiority can be guessed from the fact that army established its direct rule in 1958, 1969 and so on.

After the retirement of General Muhammad Musa, Yahya Khan became Commander in Chief of Pakistan army in 1966. His appointment on the top position of military institution was out of turn³¹ as previously cultured in the military history of Pakistan.

²⁸Fazal Muqem Khan, *The Story of Pakistan Army* (Karachi: Government Printing Press, 1963), 142-143.

²⁹Saddiqi, *The Military in Pakistan*, 47.

³⁰Ibid., 66.

³¹Major General (Retired) Fazal Muqem Khan, *Pakistan's Crisis in Leadership* (Islamabad: National Book Foundation, 1973), 151.

Judiciary:

With the imposition of Martial law, whole the state structure came under the direct rule of Chief Martial Law Administrator. Whole the regime can be marked as military regime. It can be substantiated from the fact that the heads of the military navy and Air force were assigned the positions as Deputy Martial Law Administrators. Number of other highly positioned military officers was instructed to administer the Martial law regulation. Most substantially, the authoritarian and military regimes have attributes to curtail and subordinate the other institutions. The same line was followed after 1958 Martial law. To make a long story short, various strategies were developed to restrict the role of politicians, political parties, and judiciary.

His coming into power was followed by abrogation of the prevailed constitution of 1956. He also made a Commission to analyze the causes of the parliamentary democracy in Pakistan. So, in such a constitutional mayhem, he on one hand, desired to run the constitutional machinery of the state and on the other hand, civilianize his regime. Resultantly, Ayub Khan stressed that the civil institutions would continue to function as possible as before.³² In this regard, Laws (continuance in force) Order was functionalized. All the courts were authorized to continue their work with the exception that no court has right to raise question related to Martial law administration.³³ Moreover, the independence of judiciary can be analyzed from the fact that Siknadar Mirza had also tried to persuade the Chief Justice of Pakistan to adjust the Martial law of 1958 under the umbrella of ‘doctrine of necessity’.³⁴

³²Paula R. Newberg, *Judging the State: Courts and Constitutional Politics in Pakistan* (London: Cambridge University Press, 1995), 79.

³³Barhanuddin Ahmed, *The General of Pakistan and Bangladesh* (New Dehli: Uikas Publishing House Pvt Ltd, 1993), 79.

³⁴Khan, *Memoirs of Let.Gen. Gul Hasan Khan*, 134.

Laws (continuance in force) Order was enacted till the new constitution is to be framed. To accomplish this task, Constitution Commission was made in 1960, under the supervision of Justice Shahab Ud Din. The Commission aimed two fundamental tasks: Firstly, to trace the failure of parliamentary democracy; and secondly, to give the future proposal for constitution.³⁵

The Constitution Commission of 1960s gave detailed summary for the proposal of new constitution. The commission favored the presidential form of government rather than that of parliamentary system.³⁶ The commission also incorporated that the nature of the state would be federal³⁷ Consisting of bicameral legislation. The upper house would represent the units; whereas, the lower house would give the notion of popular representation. The report also incorporated the system of basic democracy. This was considerably included in the commission report to avoid the adult franchise and suggest a restricted franchise.³⁸ Ayub Khan brought some changes in this constitution commission and promulgated the 1962 constitution. The constitution of 1962 was centralized and Ayub centered. The constitution of 1962, along with numerous culpabilities 'did not contained any fundamental right' but still the judges 'took the oath to uphold the constitution'.³⁹

Legal battles:

The abrogation of 1956 constitution was followed by Martial law as discussed earlier. So, technically no state can be run efficaciously without constitution. It is basically the constitution that gives direction and track to be travelled upon. In the same line, Ayub Khan issued the

³⁵Hamid Khan, *The Constitutional and Political History of Pakistan* (Karachi: Oxford University Press, 2002), 135.

³⁶Government of Pakistan, *Report of the Constitution Commission*, 1962, P.31.

³⁷Ibid., 40.

³⁸Masud Ahmad, *Pakistan: A Study of Its Constitutional History 1857-1975* (Lahore: Research Society of Pakistan, University of Punjab, 1978), 62.

³⁹Dorab Patel, *Testament of a liberal* (New York: Oxford University Press, 2000), 79.

proclamation of laws (continues in force) order.⁴⁰ This order enforced all the laws other than 1956 constitution. Moreover, it also empowered the Supreme and High courts to issue writ jurisdiction.⁴¹ At the same time, the courts were directed not to issue any writ against the Martial law proclamation or Martial law authorities.⁴² The Supreme Court carried on its functioning despite the abrogation of the constitution. This was esoteric recognition of the Martial law regime and its authorities on the part of the guardians of the state. But soon Laws (continuance in force) Order was challenged under the state vs Dosso⁴³ and others.

Here the Chief Justice Muhammad Munir applied the Hans Klensons's theory about state and laws. On the basis of this theory, if a coup or revolution staged successful then it would be legitimized and the new regime would be recognized as a sovereign entity.⁴⁴ Every successful revolution is internationally recognized method of changing the constitution.⁴⁵ Moreover, when an abrupt political change destroys the national order, it not only destroys the constitution but also validate the new legal order.⁴⁶ The Chief Justice further added; that if the revolution had failed then its proponents must be tried for treason.⁴⁷ A.R. Cornelius dissented the Dosso's case judgment on the basis that the judgment not only validated the contemporary coup but also all the future coups.⁴⁸ This view of the A. R. Cornelius remained proved in Pakistani politics later on.

⁴⁰Ibid., 53.

⁴¹Dawood, *The Role of Superior Judiciary in the Politics of Pakistan*, 24.

⁴²Khan, *The Constitutional and Political History of Pakistan*, 127.

⁴³Patel, *Testament of a Liberal*, 57.

⁴⁴Ilhan Niaz, *The Culture of Power and Governance of Pakistan 1947-2008* (Karachi: Oxford Pakistan Paperbacks, 2010), 183.

⁴⁵Khan, *The Constitutional and Political History of Pakistan*, 128.

⁴⁶Nasim Hasan Shah, *Memoirs and Reflections* (Isamabad: Alhamra, 2002), 65.

⁴⁷Ibid., 65.

⁴⁸Patel, *Testament of a Liberal*, 59.

The judges who had validated the Martial law and laws (continuance in force) order had taken oath to uphold the 1956 constitution. After the Martial law, the people were kept deprived of the fundamental rights. So, now in Dosso case, the judges might decide that either they resign or continue to work in the absence of 1956 constitution. The continuity of working with regime, in the absence of 1956 constitution, meant the validation of Martial law.⁴⁹ The judges followed the later provision.

Institutionalization:

In this portion, the strength of the representative institutions and their institutionalization would be analyzed. It would also be discussed that why do the dictatorial regimes hinder the independency of political institutions? Moreover, the cunningness of the power elites to impede the institutionalization of the representative institutions by framing pseudo democratic institutions would be the primary focus.

The deviation of the institutionalization of the political processes can be guessed from asymmetrical political developments. During the first decade almost seven prime ministers came and went, but no crystal clear process of transformation is seen, to be agreed upon. Such kind of irresponsible perpetration on the part of power elites was cultured. Such kind of political developments created opportunities for the other apolitical institutions to overcome the state machinery.

In Pakistan, the progress of any political development is collapsed before its completion. When any process of institutionalization is at the verge of accomplishment, a ghost occurs which disrupts the whole process. For instance in 1954, the constituent assembly had completed its task

⁴⁹Ibid., 59.

of framing the constitution⁵⁰ but the assembly was collapsed. Similarly, when the 1956 constitution was promulgated, the election was tactically delayed and the democratic transformation through electoral process failed. Such kind of disruptions may not be placed in the category of coincidental happenings but rather systematic happenings.

The question of political institutionalization in Ayub era was merely of a minimal nature. Political institutionalization may flourish in a circumstances where political institutions have favorable conditions to grow. In Ayub Khan's era political parties were banned, sponsorship was imposed, controlled democracy was implemented and election tribunals were not independent. In such a complex political scenario, everything was Ayub centered. A new kind of political system emerged; which was ostensibly democratic but Ayub centric in reality.⁵¹ Ayub had initiated a propagation of this system i.e. Basic Democracy. He was of the opinion that through this system we could solve the problems of the state.⁵² In reality, the system had discouraged the institutionalization of democracy.

The most ferocious act during 1960 was that all the democratic processes i.e. constitution making, presidential election, election of basic democrats, election of provincial and National assembly member were completed in the absence of representative institutions and political parties. Under the shadow of Martial law, where the political activities were ban, Ayub Khan legitimized his presidency. After the completion of these all processes, he declared in 1962, 'that

⁵⁰Khan, *The Constitutional and Political History of Pakistan*,

⁵¹Ashok Kapur, *Pakistan in Crisis* (London: Routledge, 1991), 42.

⁵²Dawn, 13 January 1961.

the whole question of political parties would be considered by the National assembly'.⁵³ The national assembly, later on, allowed the political parties to participate.

The Ayub regime can be divided into two parts in terms of Martial law regulation. The first part is still 1962, when a martial law was imposed. The second part initiates post 1962, when he civilianized his regime through pseudo democratic tools. In both the terms the regime remained Ayub centric in the sense that he had captured the pinnacle of the power structure.

The exercise of power by the power elite to affect the institutions and institutionalization during Ayub era, takes place since the imposition of Martial law in 1958. For instance, the imposition of Martial law by Ayub Khan, its support by Sikandar Mirza and its legalization by Chief Justice Muhammad Munir signifies that all the echelons of power structure were guilty. It is because of the fact that they have by one way or other way supported the cause of deviation from the institutionalization.

The higher circle, sitting in the policy making level had no popular support at constituency level. So, they were aware that elections would bring undesired results. Sikandar Mirza, being the part of that power structure, postponed the election time and again. Above this all, he framed a suitable ground for imposition of Martial law. To substantiate it, he in September 1958, criticized the democratic government for a three times in a single week.⁵⁴ The Chief Justice of Pakistan followed the Hans Klenson's theory⁵⁵ about state and laws. He notified this

⁵³Muhammad Ayub Khan, *Friends not Masters: A political Autobiography* (Karachi: Oxford University Press, 1967), 230.

⁵⁴Ayesha Jalal, *The State of Martial Rule: The Origin of Pakistan's Political Economy of Defence* (Lahore: Vanguard Book Pvt Ltd, 1991), 274.

⁵⁵Niaz, *The Culture of Power and Governance of Pakistan 1947-2008*, 183.

revolution as successful. Later on, this military coup was legalized under the dress of law of necessity.

The game of power elites i.e. Sikandar Mirza and Ayub Khan remained continued in the post Martial law period. These power elites had not only changed their institutions but also the basic narrative of the state structure. Every power elite struggled to acquire more power. Initially, Sikandar Mirza remained president and Ayub Khan became the Chief Martial Law Administrator. On 24 October 1958, Ayub Khan was assigned the position of premiership. Neither Ayub Khan was satisfied from his persisting power nor was Sikandar Mirza, esoterically, in position to bestow whole the power to Ayub Khan. So he planned a strategy to intrigue against Ayub Khan inside army. He ordered Chief of Staff of Air Force Commodore Rabb, to arrest⁵⁶ three Generals i.e. Sher Bahadur, Yahya Khan and General Hamid. Sikandar Mirza has refuted this allegation in his letter to the editor *The Times*, London on September 13, 1967. He had phrased that these blames are ‘not only inaccurate but are based on trumped up reports by man like Air Commodore Rabb’.⁵⁷ Air Commodore Rabb, according to Sikandar Mirza, was later rewarded for such an act. In the same letter he further adds that ‘if the revolution of October 7th 1958; had failed and no amount of letter writing could convert on illegality into legality, I should have been the only person who would have been shot’.⁵⁸ Although, both Ayub Khan and Sikandar Mirza were good friends, and had also supported each other, but after the above

⁵⁶Ayub Khan, *Friends not Masters*, 73-74. Also Asghar Khan, *Generals in Politics: Pakistan 1958-82* (New Dehli, 1983), 8-9.

⁵⁷Ahmad Salim, ed., *Iskander Mirza Speaks: Speeches, Statements and Private Papers* (Lahore: Gora Publishers, 1997), 249.

⁵⁸*Ibid.*, 250.

discussed mishap, Ayub Khan desired to get rid of Sikandar Mirza. So, Ayub Khan ‘forced Mirza to resign and unceremoniously, to leave the country’.⁵⁹

Once Ayub Khan acquired the pinnacle position of power structure, he exercised his power arbitrarily by ousting some and including other desired people. The unwilling people were debarred from political activism through a manipulative strategy of EBDO. This strategy was also constitutionally covered. Through this act, he banned all the political activities and political protestation.⁶⁰ Similarly, he included the desired people through the system of Basic Democracy. The system was operationalized in controlled environment. Whole of the mechanism was channelized through the supervision of bureaucracy. CSP officers were the best partners of Ayubian rule. The manifestation of this alliance can be comprehended by the bureaucracy’s encroachment in the elections of the Basic Democracy.

The Basic Democracy System had its roots at local level, so the Commissioners and Deputy Commissioners were patently involved in this scheme of Basic Democracy.⁶¹ Resultantly 80,000 geographical units of Basic Democrats were elected. The elections of the Basic Democrats were on non-party basis, as the political parties were already banned. These elected Basic Democrats had no crystal clear solid ideology as the party has. Each of them was individually campaigning one’s own stance. So, they were comparatively more exposed to exploitation. Observing the entire scenario, Ayub Khan announced the Referendum for presidential election. Out of the 80,000 Basic Democrats almost 95% i.e. 75283 Basic Democrats

⁵⁹Newberg, *Judging the State*, 72.

⁶⁰Siegefried O.Wolf& Seth Kene, ‘Democratic Ambitions Under praetorian Stress- Civil Military Relation in Pakistan’ in Paul Chamber and Aurel Croissant, ed., *Democracy under Stress: Civil Military Relation in South and Southeast Asia* (Bangkok: ISIS, 2010), 175.

⁶¹Ian Talbot, *Pakistan: A Modern History* (Karachi: Vanguard Books, 1999), 161.

avored Ayub Khan to have presidency for the next five years.⁶² Dr. Muhammad Waseem had depicted the Ayub Regime in these words;

Initially, the Ayub system was based essentially on bureaucratic hegemony on one hand and Basic democrats sans political parties on the other, while the military provided an overall cover.⁶³

Once Ayub Khan legalized his office of presidency through Basic Democrats, then he anticipated to direct the future timeline in the form of constitution. The formation of constitution was followed by the election of National and provincial assemblies in April and May 1962 respectively. These members would only be selected through the support of Basic democrats.⁶⁴

The national assembly, formed in 1962, authorized the political parties to function. Ayub Khan had but no option to sign the bill. The consent of the political parties might have given hope to people to dissolve the power structure of Centre. To counter this strategy, and to maintain ones hegemony, Ayub Khan organized Convention Muslim League. Later on, he acquired its presidency.⁶⁵ Whole of the party moved around the personality of Ayub Khan. The party had the support of the Basic democrats, industrialists, power elites and government machinery. So, it acquired crystal clear majority in the National assembly and provincial assemblies of East and West Pakistan.⁶⁶

Completing the first tenure of presidency, Ayub Khan declared the new BD elections and presidential election. During this presidential election of 1965, the political parties were conversant with the fact that they could not individually succeed against the men, who had his

⁶² Altaf Gohar, *Ayub Khan----- Pakistan's First Military Ruler* (Lahore: Sang-e-Meel Publication, 1994), 169.

⁶³ Mohammad Waseem, *Politics and the State in Pakistan* (Lahore: Progressive Publishers, 1989), 156.

⁶⁴ Khan, *Friends not Masters*, 229.

⁶⁵ *Ibid.*, 232.

⁶⁶ Mehmood, *Pakistan: Political Roots & Development*, 121.

people in political arena, bureaucracy and Army. The Basic Democrats, had entrenched relations with the party organization i.e. Conventional Muslim League and bureaucratic machinery. So, the political parties unanimously brought the *Mother Millat* Fatima Jinnah, as a candidate for the presidency against Ayub Khan. Miss Jinnah Fatima attracted the overwhelming crowd. Where ever she visited she was received with enthusiastic slogans and moral support.⁶⁷ On the second January 1965, it became evident that Miss Jinnah had lost almost everywhere except Dacca and Karachi.⁶⁸ It was because of the fact, that Ayub Khan mobilized the machinery of bureaucracy more effectively than that of his own party organization.⁶⁹ To a great extent the government machinery was seen indulged in supporting the Ayub Khan's election campaign.⁷⁰ Regarding the 1965 election campaign and Ayub Khan's personality, Ian Talbot has depicted that 'he may have won the election, but he lost the people'.⁷¹

When Ayub Khan gained presidency for the second time, now Bhutto tried to convince Ayub Khan to capture Kashmir. This, according to Bhutto, would bring stability and balance of power in this region. In this regard, Ayub Khan made a committee to reactivate the Kashmir issue. Aziz Ahmad was made the head of this Committee. They envisaged the idea of infiltrating the guerillas to Kashmir. The penetration of guerillas to Kashmir is termed as Operation Gibraltar. This operation aimed to penetrate its people in the Indian Kashmir to spring up insurgency.⁷² This operation failed because the Indian had sealed all the entrance and exit points through which guerrillas had been entered.⁷³ To counter this operation, another operation was

⁶⁷Khan, *The Constitutional and Political History of Pakistan*, 170.

⁶⁸Khan, *Friends not Masters*, 240.

⁶⁹Talbot, *Pakistan: A Modern History*, 161.

⁷⁰Dawn, 7 December 1964.

⁷¹Talbot, *Pakistan: A Modern History*, 161.

⁷²Lawrence Ziring, *Pakistan: At the Cross Current of History* (London: Oneworld Publication, 2003), 105.

⁷³Saddiqi, *The Military in Pakistan*, 92.

launched i.e. Grand Slam. Resultantly, both the operations faced fiasco.⁷⁴ The most surprising thing is that the scams were framed by Zulfiqar Ali Bhutto with the suggestion of General Akber Khan who was involved in Rawalpindi conspiracy.⁷⁵

As the operation Gibraltar was based on wrong perception and assumptions, it gave genesis to 1965 war between Pakistan and India. On one hand, the guerillas sent to Kashmir must engage the people of Kashmir in general uprising. And on the other hand, the perpetrators of the scheme had underestimated the intentions of India.⁷⁶ Consequently, this led both the states to a situation of War. India crossed the international border and attacked Pakistan. The war between Pakistan and India continued for almost 17 days. Nothing was achieved but only devastation on both sides of the border.

The war of 1965, generally, and Tashkent declaration, specifically, instituted the down fall of Ayub Khan. In the Tashkent declaration, the representatives of both states i.e. India and Pakistan reached Tashkent. The declaration did nothing to the status of Kashmir.⁷⁷ It only forced both the state to withdraw their armies from the Kashmir. The declaration took a dramatic shift when Bhutto left the meeting and came to Pakistan. Reaching Pakistan, he commenced propaganda campaign against Ayub Khan and resigned the portfolio he occupied. In such mayhem, the students of Punjab University agitated and denounced Ayub Khan for selling Kashmir to India.⁷⁸

⁷⁴Ziring, *Pakistan: At the Cross Current of History*, 107.

⁷⁵Ibid., 106.

⁷⁶Talbot, *Pakistan: A Modern History*, 177.

⁷⁷Ziring, *Pakistan: At the Cross Current of History*, 109.

⁷⁸Talbot, *Pakistan: A Modern History*, 179.

After the Tashkent declaration, mass scale agitation started and dissipated in whole the country. In West Pakistan, Bhutto waged propaganda against Ayub Khan, and in East Pakistan, NAP Bashani and Awami League were igniting people against the Ayub regime. In 1969, Democratic Action Committee (DAC) was formed consisting of eight political parties. This alliance addressed an agenda including the nullification of the 1962 constitution and the implementation of parliamentary system readily.⁷⁹

Throughout the regime, the nexus between the military elites and bureaucrats was profound and entrenched. Ayub had actually brought the military elites, bureaucratic elites and economic elites on the single page. These power elites had started struggle during the first decade against the ineffective politicians after the demise of Liaqat Ali Khan.⁸⁰

These power elites had crossed their boundaries and interfered in the premises of other institutions. For instance, the first Ayub cabinet consisted of four Civil Servants. Moreover, the decision in the first meeting of advisory council signified that the state administration might be run unitedly by bureaucracy and military. The cabinet along with the civil servant also consisted of four military Generals, who surpassed the role of all other remaining eight members inside cabinet.⁸¹ This thing has actually given genesis to imbalance of institutions. Consequently, some institutions have become potent to affect the other institutions. For instance, in Ayub era, the unrepresentative institutions i.e. bureaucracy and army have surpassed the representative institutions. This potency of unrepresentative institutions in state structure could not foster the growth of democracy.

⁷⁹Rizwi, *The Military and Politics in Pakistan*, 118.

⁸⁰Kapur, *Pakistan in Crisis*, 50.

⁸¹Ahmed, *Bureaucracy and Political Development in Pakistan*, 98.

Chapter # 4

Power structure and institutionalization in Pakistan 1969-71

The democratic norms and the strength of the representative institutions remained underestimated during the reign of Yahya Khan. Though the political activism and political agitation had reached its peak, but still the final decision was in the hands of the military and establishment. It can be materially manifested from the fact that the Awami League acquiring overwhelming majority in the 1970's elections quested for power until its dismemberment.

Bureaucracy:

Bureaucracy had advocated the cause of Ayub Khan for a long decade. At the end of his regime, the organizational structure of bureaucracy had developed more organized and professional. The prestige and privileges of bureaucrats, especially C.S.P. officers, had respectively intensified to the level of their rankings. At the same time, the political scenario was exacerbating. The political parties, masses and students had launched a wide scale protest against Ayub Khan throughout the country. The protestors were also chanting slogans against C.S.P. officers for co-operating Ayub Khan's regime. At the same time, such kind of understanding had developed inside military that civil bureaucracy has manipulated Ayub Khan. In this regard, C.S.P. officers have acquired all the credits of achievement and put whole the blame on military.¹

¹IlhanNiaz, *The Culture of Power and Governance of Pakistan 1947-2008* (Karachi: Oxford Pakistan Paperbacks, 2010), 109.

In this complex scenario and anarchic conditions, the state needed stabilization. The anti-CSP² factors in agitations helped Yahya Khan to scrutinize the civil bureaucracy. Moreover, a perception had been prevailed in the higher circle i.e. president and his advisors, that Ayub Khan was manipulated by C.S.P. officers. In short, during the last years of Ayub regime, Ayub Khan had been pushed to the closed end streets with limited options i.e. either to resign or to have complete reliance on bureaucracy. He first opted for reliance on the bureaucracy but, later on, the political situations compelled him to resign.

When Yahya Khan became Martial Law Administrator, he perpetrated quick actions to scrutinize the institution of civil bureaucracy. To substantiate these measures, he firstly and foremostly, issued notices to those civil servants who had their own houses but still had allotted government residences for their dwelling.³ Moreover, various instructions were issued regarding the corruption and rules and regulation of public servants. All the servants were ordered to keep away from the public agitation and strikes.⁴

In November 1969, Yahya Khan framed a Service Reorganization Committee (SRC) to scrutinize the institution of bureaucracy. This committee was composed of ten members.⁵ The committee examined the bureaucratic structure and exposed number of civil bureaucrats who had done malpractices. The whole process of scrutinization was divided into two parts. In the first part, the Committee exposed the corrupt bureaucrats and, in the second part, these corrupt bureaucrats were recommended to higher judiciary for further proceedings. Before initiating this

²Aminullah Chaudry, *Political Administrators: The Story of the Civil Service of Pakistan* (Karachi: Oxford University press, 2011), 97.

³Dr. S.M.Haider, *Public Service: The New Imperative* (Lahore: The Book House), 50.

⁴Ibid., 50.

⁵Irfan Ur Rehman Raja, *Administration: Its Theory, History and Practice with Special Referenceto Pakistan* (Lahore: Catapult Publishers, 1976), 172.

program of scrutinization, the members of the higher judiciary were reshuffled by retired judges.⁶ Resultantly, in a single year, the tribunal dismissed 303 civil servants.⁷ Although some of the decisions of tribunal were wrong but still this fight against corruption delighted numerous people.⁸

The purpose of this scrutinization was to bring some modifications in the structure of bureaucracy. In the words of Dr. Agha Iftikhar, there are numerous external and internal factors that could control the bureaucracy. To rephrase, these internal and external factors, could bring changes and modifications in the structure of bureaucracy. The external factors consist of legislature, judiciary and public opinion. And the internal factors consist of the Federal Public Service Commission and the hierarchical nature of bureaucracy.⁹

Since 1969-71, all these aforementioned factors were prevalent but still bureaucracy remained one of the ruling institutions. The external control of bureaucracy only works when judiciary and legislature are strong and people are aware. Moreover, the scrutinization of bureaucracy during Yahya Khan's Period did not sustain its impacts for long time. Although, initially the bureaucracy was pressurized, as that of during Ayub Khan era, but soon it got out of the trap of scrutinization and got involved in the decision making process.

Military:

Ayub Khan resigned the office of presidency under the pressure of political agitations. The 1962 Constitution incorporates that if the president could not continue its office because of illness or

⁶Dorab Patel, *Testament of a liberal* (New York: Oxford University Press, 2000), 98.

⁷Chaudry, *Political Administrators*, 97.

⁸Patel, *Testament of a liberal*, 98.

⁹Dr. Agha Iftikhar Hussain, 'The Civil Services', in Jameel Ur Rehman Khan, ed., *Government and Administration in Pakistan* (Islamabad: Pakistan Public Administration Research Center O&M Division, 1987), 178-183.

any other reason, then the charge would be transformed to the president of the national assembly.¹⁰ Ayub Khan transformed his government to another Military General Yahya Khan. Acquiring the power, he imposed Martial Law and abrogated the 1962 constitution. This transformation of Ayub Khan's government to that of Yahya Khan was but continuation of the same military regime with new echelons. In other words, it was a 'coup with in coup'.¹¹

Yahya Khan, when came to power, nominated military officers on the top civilian positions. The military men not only became the Martial Law Administrators and Governors but also occupied the key positions in the presidency.¹² Moreover, whole the civil secretaries and government machinery came under the control of S.G.M Peerzada, Principal Staff Officer (PSO) to president and Chief Martial Law Administrator.¹³

During Yahya Khan Regime, the Martial Law Administrator was of the view, that the state could be operated on the same principles as that of military.¹⁴ So, in this context, he transformed whole the power to General Head Quarter (GHQ). Moreover, in the words of Burhandudin Ahmad, the government was much militarized¹⁵ in the sense that the hegemony of the military was seen everywhere in the state. To substantiate this, when the government asked for the deposition of arms in the nearest police station, long lines were seen standing in front of the police stations. In response to this, the civilians were issued receipt as a proof.¹⁶

¹⁰Ian Talbot, *Pakistan: A Modern History* (Karachi: Vanguard Books, 1999), 183.

¹¹Ayesha Siddiqa, *Military Inc. Inside Pakistan Military Economy* (Karachi: Oxford University Press, 2007), 58.

¹²Barhanuddin Ahmed, *The General of Pakistan and Bangladesh* (New Dehli: Uikas Publishing House Pvt Ltd, 1993), 43-44.

¹³Major General (Retired) Fazal Muqem Khan, *Pakistan's Crisis in Leadership* (Islamabad: National Book Foundation, 1973), 16.

¹⁴Niaz, *The Culture of Power and Governance of Pakistan*, 109.

¹⁵Ahmed, *The General of Pakistan and Bangladesh*, 44.

¹⁶*Ibid.*, 44.

To ameliorate the politically exacerbated conditions and to bring institutional stability, Yahya Khan promised to hold general election in October 1970. The purpose of this election was to transfer power to democratically overwhelmed section, group or political party.¹⁷ After the election, controversy generated among people that military did not desire to transfer power to civilians. The reason beyond this surrounds that the military hoped ‘to retain a permanent role for the military in a new constitutional structure’.¹⁸

The military’s prophetic guess about the election result did not prove. The higher circle echelons were of the opinion that no party would take a clear and solid majority.¹⁹ When the polling day reached, it became awarded to the higher circle echelons of military that Awami League would lead an overwhelming majority. At that stage, it was but a dream to control the electoral machinery. Resultantly, Awami league acquired overwhelming majority.²⁰

The transfer of power was next awaited step followed by 1970’s election. The transfer of power was time and again strategically delayed. The delaying tactics of the ruling authority realized to Bengali that they are discriminated. These imposed conditions compelled Bengali to initiate non-cooperation and disobedience movement. The power elites of Pakistan military could not help to exercise their power, in abolishing this disobedience movement. So, the Pakistani government launched a full-pledged military operation to silence their voices and to establish the writ of the civilian government.²¹ Consequently, the Pakistan military faced fiasco.

¹⁷Ayesha Jalal, *The State of Martial Rule: The origin of Pakistan's political economy of Defence* (Lahore: Vanguard Book Pvt Ltd, 1991), 308.

¹⁸Omar Noman, *The Political Economy of Pakistan 1947-85* (New York; KPI Limited, 1988), 44.

¹⁹Ibid., 44.

²⁰Ibid., 46.

²¹Irfan Ur Rehman Raja, *Administration: Its Theory, History and Practice with Special Reference to Pakistan* (Lahore: Catapult Publishers, 1976)

The army surrendered and on 16th December 1971, Bangladesh was dismembered. The fall of Dhaka, gave birth to coup inside military of Pakistan.²² The top military echelons of that time i.e. General Gul Hassan and Rahim Khan forced Yahya Khan to leave his position. Resultantly, from 18th to 20th December, 1971, the country was virtually without a government while Yahya Khan was under house arrest, unofficially.²³ Along with this, Bhutto was empowered to acquire the position of presidency and Chief Martial Law Administrator.²⁴

Judiciary:

Ayub Khan could not provide an interim government that may perform the political process under the umbrella of civilian rule. Rather the power was imparted to another military General, Yahya Khan. Yahya Khan imposed Martial law and the Constitution of 1962 was abrogated and political activities were banned. The Martial law again proved to be hindrance in the way of sustaining the political process. To run the state machinery, he promulgated the provisional constitutional order (PCO), which was identical to the Laws (continuance in force) Order of 1958.²⁵

LFO (Legal Framework Order) was the basic narrative through which Yahya Khan had to conduct the state activities. This LFO was the interim constitutional order. The LFO aimed to conduct election and direct future constitution of Pakistan. The process of election was enumerated along with the representative phenomenon in LFO. It had also signified the date of new elections which were to be held in October 1970. But due to flood in East Pakistan, the

²²Patel, *Testament of a liberal*, 101.

²³Mian Raza Rabbani, *LFO: A fraud on the Constitution* (Karachi: Q.A.Publishers, 2003), 37.

²⁴Patel, *Testament of a liberal*, 101.

²⁵Ibid., 97.

elections were postponed to December 1970.²⁶ Regarding the futuristic goals of framing the constitution, LFO restricted the oncoming National Assembly to two provisions. Firstly, the National Assembly elected in 1970 election would frame the constitution within 120 days and secondly, the position of executive was to be surmounted to that of legislative authority.²⁷

The spirit of the judiciary can be analyzed from the fact that with the transformation of power to other military regime, the judiciary accordingly shifted its allegiance to the new regime forgetting its earlier oath.²⁸ The judiciary emphatically followed the principles and narrative described by the new regime.

Legal battles:

The transfer of power to Yahya Khan was itself an arbitrary decision. The arbitrary decision disguised in the form of Martial law repealed all the persisting laws and constitution of 1962. The regime issued its own provincial constitutional order that restricted all the political activities followed by the abrogation of 1962 constitution. The quasi-independent judiciary was authorized to perform as a guardian but no writ should be made against the Martial law administrators.²⁹

At last the Martial law authorities were challenged by Miss Asma Jilani. She filed a case against Yahya Khan. All the debate went around the taking of power and imposition of Martial law by Yahya Khan. Ayub Khan's transformation of power to another military regime seemed somewhat institutionalization of dictatorship. The article 16 of the 1962 constitution was violated by Ayub Khan by not transferring power to the president of the national assembly. So, in this

²⁶Pervaiz Iqbal Cheema, *The Armed Forces of Pakistan* (Australia: Allen & Unwin, 2002), 143.

²⁷Paula R. Newberg, *Judging the State: Courts and Constitutional Politics in Pakistan* (London: Cambridge University Press, 1995), 114.

²⁸Niaz, *The Culture of Power and Governance of Pakistan*, 187.

²⁹Hamid Khan, *The Constitutional and Political History of Pakistan* (Karachi: Oxford University Press, 2002), 210.

case, the Supreme Court's jurisdiction went against Yahay Khan. He was declared as usurper.³⁰ Though it was a good message for democratic aspirants, but the court decision was too late. At the time, when the Court gave its jurisdiction against Yahya Khan, he had ceased power and was under house arrest.³¹ Still the jurisdiction is appreciated in the pages of democratic history of Pakistan. This decision, in other words, patently declared that Kelson's doctrine was not universally applicable.³² Through this doctrine, justice Munir had opened a safe door for military dictators to usurp power.

Institutionalization:

A strong state is considered the one, where the state treats all the institutions equally including military.³³ No institution has discretionary power to become a state itself. Along with this, the institutions working inside state structure must have their own hegemony to perform independently. But where, the concentration of power is restricted in the hands of power elites and institutions are not institutionalized then the concerned institutions perform according to the wishes of those individuals. In Pakistan, the power elites are in persistent struggle to acquire more and more power; as the industrialist do in capitalist world. In 1969, Yahya Khan was President, Chief Martial Law Administrator, Supreme Commander of Armed Forces, Executive Head of the Armed Force and Commander in Chief of the Army³⁴ at the same time.

Now Yahya Khan had intended to transform the power to new elected government. For this purpose, he had also made some meetings with politicians. At the same time, the injustices played with the peoples of East Pakistan, in the sphere of economy, bureaucracy and military had

³⁰Nasim Hasan Shah, *Memoirs and Reflections* (Isamabad: Alhamra, 2002), 69.

³¹Ibid., 69.

³²Ibid., 69.

³³Siddiq, *Military Inc. Inside Pakistan Military Economy*, 33.

³⁴Raja, *Administration: Its Theory, History and Practice with Special Reference to Pakistan*, 179.

reached its peak. Moreover, the impression of negligence of Bengali had created a disparity between East and West Pakistan.³⁵ In this line Bengalis were of the view that if they could not achieve overwhelming majority in the coming elections, the injustices would remain continue for long time. Along with the other field, the Bengali's percentage in the cabinet representation was also less. For instance, since 1947-71, the Bengali's representation in the federal cabinet ranged from 25-47 percent with only exception to Suherwardy's regime, when the Bengalis representation was almost 57 percent.³⁶

According to LFO, the election had been fixed in October 1970. But due to the tidal wave cyclone, the election was correspondingly postponed to December 1970. During this calamity, people of East Pakistan were not properly assisted in the first moments. These acts of grievances and the disparity of Bengalis in bureaucracy and military centered around one single point of Bengali Nationalism. Bashani and Sheikh Mujeeb, both, Voiced for Bengal in different ways. Moreover, the boycott of NAP (run by Maulana Bashani) helped Mujeeb to win the majority of seats in the coming election of 1970.³⁷

The election results brought disastrous conditions. Sheikh Mujeeb had won 167 seats out of 300 and Bhutto had won only 85 seats. The democratic process was again hindered when sheikh Mujeeb was not assigned with the power. Having majority of seats, he had to form the government, but this was diplomatically delayed.

The real intention behind this story was that the prevailed power structure did not want to transfer the power to Sheikh Mujeeb. These proceedings affected the institutionalization of

³⁵Rounaq Jahan, *Pakistan Failure in National Integration* (New York: Columbia University Press, 1972), 51-89.

³⁶Hasan Askari Rizwi, *The Military and Politics in Pakistan, 1947-1997* (Lahore: Sang-e-Meel Publication, 2000), 128.

³⁷Lawrence Ziring, *Pakistan: At the Cross Current of History* (London: Oneworld Publication, 2003), 118.

democratic norms. Emphatically, the establishment of West Pakistan, military and particular dominant class did not favor the Bengalis to frame the government, for they were considered ethnically inferior.³⁸ Moreover, at that time, alliance had been developed between Bhutto and army. So, neither the military officers were willing to transfer power nor Bhutto was in a mood to sit in opposition benches.³⁹ The military and PPP was represented by Yahya Khan and Zulfikar Ali Bhutto respectively. So, both these power elites favored their personal and institutional interests more than that of national interest to keep Bengalis attach with the state of Pakistan.⁴⁰ Even some of the army officers of West Pakistan were saying that we will not allow these bastards to establish their rule.⁴¹ Moreover, some of the military officers of high rank like General Tikkah Khan and General Hamid were not in favor of one vote for one man principle. They believed that this principle would engender the Bengalis to create hegemony in the national assembly.⁴²

Yahya Khan, according to his promise, summoned the assembly session on 3rd march 1971. The LFO had also incorporated that the new constitution would be framed by the national assembly. So, Bhutto was not happy with the draft constitution prepared by Awami League. Zulfikar Ali Bhutto, in response to the announcement of the assembly session, declared that PPP would not attend the assembly session on 3rd March.⁴³ This act of Bhutto was applauded by the *Pakistan Times*.⁴⁴ This act was rather disgust for the narrative of democracy. It was because of the fact

³⁸Siddiq, *Military Inc. Inside Pakistan Military Economy*, 77.

³⁹Shuja Nawaz, *Crossed Swords: Pakistan, its Army, and the Wars Within* (Karachi: Oxford University Press, 2008), 263.

⁴⁰Kapur, *Pakistan in Crisis*, 73.

⁴¹Siddique Salik, *Witness to Surrender* (Karachi: Oxford University Press, 1977), 75.

⁴²G.W.Choudhry, *The Last Days of United Pakistan* (London: Longman Group Ltd, 1974), 92-93.

⁴³Dawn, 14 March 1971.

⁴⁴Ahmed, *The General of Pakistan and Bangladesh*, 51.

that the majority party, having overwhelming majority in the national assembly, was not allowed to form a discretionary government of one's own wishes.

The hindrance of the political process in the form of assembly session led the Bengalis to agitate on mass scale level. The Pakistan's higher authorities used force to solve the problems of East Pakistan. In such a condition, Sheikh Mujeeb Ur Rehman was forced to the last corner of closed end street, when he declared his independence on 25 March 1971, on radio, in these words.

This may be my last message. From today, Bangladesh is independent. I call upon the people of Bangladesh wherever you are and with what you have, to resist the army of occupation to the last. Your fight must go on until the last soldier of Pakistan occupation army is expelled from the soil of Bangladesh and final victory is achieved.⁴⁵

When the Islamabad planned for the military operation, the *Makhti Bahini* pondered for revolutionary activities to be pursued. India at this time, more sympathetic with Bengalis, supported the cause of Bengal's independence. Indian forces penetrated into Bangladesh and joined *Makhti Bahini* to fight against Pakistani army. General Tikka Khan forced his soldiers to fight fiercely against Bengalis. This undemocratic act on the part of West Pakistan to launch a full-pledged war against East Pakistan, divided Pakistan into two independent states i.e. Pakistan and Bangladesh.⁴⁶

During Yahya Khan's reign, the representative institutions were not venerated as the power elites did not accept the election results. Though, the political awareness had intensified

⁴⁵Salik, *Witness to Surrender*, 75.

⁴⁶Zafar Iqbal, 'Elitist Political Culture and the peril of democracy' in Ravi Kalia, ed., *Pakistan: From the Rhetoric of Democracy to the rise of Militancy* (New Delhi: routledge, 2011), 140.

but still the democratic norms were exposed to be easily crushed. Whole the state was run under the command of the military.

Conclusion:

Regarding the question of institutionalization of institution, Samuel Huntington has rightly determined the factors of coherence, complexity, adoptability and autonomy.¹ These all factors are mandatory to be analyzed inside institutions. In a system, which is blend of numerous institutions, the relation of one institution with others and its role inside system is significant for institutionalization. In modern state structure, each institution working inside state, along with its legal limitations, must be independent in its premises and its functions. The role of District Commissioner and District Officers to perform the judicial function at local level² is averse to the idea of institutionalization. In this case the institution of judiciary is directly victimized by the power elites of executive. Such kind of encroachment at higher level would foster imbalance of institutions. Resultantly, the potent institutions would exert a force on impotent institutions to mitigate the hegemony of latter institution. In such a scenario some institutions would become the master; whereas, other would become the client.

In Pakistan, the representative institutions and judiciary are powerless; whereas, Military and bureaucracy are powerful. The tycoons and power elites of military and bureaucracy have an understanding to support each other. Since 1951-71, no single Governor General or President, who has been the hub of power, has been a career Politician. All the *de-facto* rulers, who have arbitrarily exercised their authority, are either civil or military bureaucrats.³

¹Samuel P. Huntington, *Political Order in Changing Societies* (New Haven: Yale University, 1973), 12-23.

²Ralph Braibanti, 'Public Bureaucracy and Judiciary In Pakistan' in S.M.Haider, ed., *Public Administration and Police in Pakistan* (Peshawar: Pakistan Academy For Rural Development, 1968), 105.

³Mumtaz Ahmed, *Bureaucracy and Political Development in Pakistan* (Karachi: National institute of public administration, 1974), 104..

The Representative institutions are actually the interest arbitrators of public. These institutions have direct relation with democracy. The derailment of democracy, time and again, has an entrenched connection with the weaknesses of the political and representative institutions. About of instability of democratic governments, Keith Callard says; that the legs of the representative institutions are not so strong to sustain its own body.⁴ Similarly, judiciary is also placed in the lower ebb of state structure in Pakistan. It has easily been penetrated by the power elites sitting in the power structure. Moreover, the study of numerous Commissions signifies that the system of judiciary doesn't operate effectively.⁵ Consequently, the judiciary as an institution lacks its hegemony.

Contrast to these aforementioned institutions, there are other alternative institutions that have occupied the power vacuum. These institutions are military and bureaucracy. In the words of Stephan P. Cohen, 'the Pakistan army officer crop not only plays a central role in defense policy but has also been central to politics of Pakistan'.⁶ In the hours of need, the Military also form a cordial nexus with bureaucracy to control the state machinery. To substantiate it, till 1951, no single institution was in position to monopolize the power. After the demise of career Politicians i.e. Quaid-i-Azam and Liaqat Ali Khan, the military strategically sided with bureaucracy and established hegemony in state structure.⁷ As a result of this, power concentrated in the hands of non-representative institutions and representative institutions just become the spectators of match.

⁴Keith Callard, *Political Study of Pakistan* (London: George Allens & Unwin Ltd, 1957), 329.

⁵Mohammad Yasin and Sardar Shah, 'System of justice' in Mohammad Yasin and Tariq Banuri, ed., *The Dispensation of Justice in Pakistan* (Karachi: Oxford University Press, 2004), 98.

⁶Stephen P. Cohen, *The Pakistan army* (London: University of California Press, 1984), 2.

⁷Ayesha Jalal, *The State of Martial Rule: The Origin of Pakistan's political Economy of Defence* (Lahore: Vanguard Book Pvt Ltd, 1991), 123-124.

The representative institutions have attributes to devolve the power and distribute the interests of people. Contrast to this, the hegemony of non-political institutions tries to concentrate the power in their hands. So, democracy which is the mentor of participation, devaluation of power and arbitrator of interest of public would remain hindered. Resultantly, its institutionalization would not take place.

The imbalance of institutions firstly transformed the democratic nature of state into authoritarianism and then into a despotic military dictatorship. In the first instance, the military sided with the bureaucratic elites to affect the institutionalization of democracy. Later on, the military created its own hegemony and superseded bureaucracy.

Since 1951-58, the state edifice was demeaned by the power elites of civilian bureaucrats and military personnel. After 1958 till 1969, the military became the direct ruler of the state. In the beginning of this period, it pressurized bureaucracy by initiating the process of scrutinization. Later on, a cordial alliance was made between bureaucracy and military. Moreover, both these institutions became the stake holder. In 1969, it was seen that the military dictatorship was institutionalized. In the words of Ayesha Siddiqi, it was a 'coup within a coup'.⁸ In a nutshell, since the birth of Pakistan till 1971, the growth of the representative institutions remained receded. Along with this no sincere efforts were held by the power elites to institutionalize the democratization process.

⁸Ayesha Siddiqi, *Military Inc. Inside Pakistan Military Economy* (Karachi: Oxford University Press, 2007), 58.

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