**First constituent assembly of Pakistan 1947**

After independence, under Section 8(1) of the Indian Independence Act, 1947 the Government of India Act, 1935 became the working constitution of Pakistan but with few amendments till the Constituent Assembly framed a new constitution. The Constituent Assembly of Pakistan extended the time perimeter to 31st March 1949; and before the termination of that date, on 28th March, by the Adaptation of Central Acts and Ordinance Order, the whole Indian Statute-Book was adapted, with due regard to the changes subsequent upon partition.

Pakistan was established constitutionally as a Federation under the Pakistan Order 1947 which included: the four provinces of East Bengal, West Punjab, Sind and North–West Frontier Province; Baluchistan; any other areas included in Federation; Karachi, the capital of Federation; and such Indian states as might accede to Federation. Its structure was espoused from Government of India Act 1935 and there was a proposal of establishment of autonomous provinces as constituent units of the Federation. Centralization was found to be both problematic and detrimental to administrative efficiency; so Provincial autonomy was its basic idea. Gradually the central government gave up much of its powers to the provincial governments and kept some basic affairs under its jurisdiction.

A significant attribute of the 1935 Act was that, for the first time, it provided the provinces with the separate authorized powers. It made little changes in their legislative authority; the provinces held the right of concurrent legislation with the center with regards to certain matters. Financial divisions between center and provinces were also designed to strengthen the center. Most important point was the emancipation of the provinces from the ‘superintendence, direction and control of the center apart from certain particular circumstances.’

Method of division of powers between center and provinces was ‘without precedent’. The Government of India Act 1935 contained three legislative lists – the federal, the provincial and the concurrent. First two lists belonged exclusively to the federal and provincial legislature respectively and both were capable to deal with matters covered by third list. The residuary powers were vested with the Governor General and he was empowered to allow center or provinces to ratify laws on any matter not mentioned in the three lists.

The provincial list included public order, the administration of justice, courts of law, police, prison, provincial public services, local government, public health, education, communications, water supply and irrigation, agriculture, land and land tenures, production, trade and commerce, and fisheries etc. In addition, the concurrent list gave the provinces the right to legislate regarding criminal law, criminal and civil procedures, marriage and divorce, wills and succession, transfer of property etc. But there were some matters outside the jurisdiction of the provinces like military force, defense, external affairs, currency, posts and telegraphs, census, banking, insurance, shipping, imports and exports, custom duties and income tax etc. In matters of concurrent list the Government of India Act provided the federal law was to prevail and the provincial law to be annulled to the degree of incompetency.

The Government of India Act 1935, empowered federal legislature to legislate even on provincial matters in two conditions; the first was when the legislatures of two provinces would invite the federal legislature to function in connection with any provincial subject (Section 103); and the other condition was that the Government of India Act gave authority to Governor General to declare ‘Proclamation of Emergency’ when security of State was threatened whether by war or by internal disturbances (Section 102). Section 102 was successively amended in 1947 as ‘the federal legislature was empowered to make laws for provinces or any part; if Governor General has declared by emergency that the security and economic life of Pakistan or any part is threatened by was or by external disturbances or circumstances arising out of any mass movement of population from or into Pakistan’; and its scope was enlarged so as to meet the situation created by the movement of population after partition.

After the creation of Pakistan the original division of financial resources had to be changed in favor of Central Government. The Central Government necessities for funds, particularly in the fields of defense, were enormous in first few years that the policy of sharing taxes with provinces was suspended. Similarly sales tax which was the subject of provincial list was also taken away by the central government.

Under the Government of India Act the administrative relations between the center and provinces were weighted heavily in favor of the center. The Government of India Act provided the supremacy of the center in different administrative subjects. One way of securing was for the federal government to function directly through its own officers posted in the provinces. It was specified under the section 124 (2) that the federal government might confer powers and impose duties on provinces, though the subject matter of legislation might be beyond the provincial purview.

The discretionary powers of Governor General were not included in Provisional Constitution. Although he was still the managerial head of the federation and all proceedings were taken on his name, he was supposed to act in all such matters on the advice of his cabinet ministers; that is why the cabinet formally gave all powers to Quaid. However, this condition was not spelt out with lucidity in Provisional Constitution. The discretionary powers of the Governor General were that he could appoint prime minister and ministers who held their offices ‘during his pleasure’. Provincial Constitution not only held the system of separate electorates but also extended it to the Scheduled Caste Hindus.

Summing up, a scrutiny of the associations of the center and the provinces under the Government of India Act as amended in Pakistan would confirm that while it provided the provinces with a separate legal personality, the central government was fully equipped with powers to carry out its responsibilities. The center reserved the ultimate means of controlling and directing the provinces. There was no room for a weak center.

The newly created state of Pakistan formed its first constituent assembly in August 1947. Quaid-i-Azam Jinnah took oath on 15th August 1947 and became the first Governor General of Pakistan. He exercised a great amount of influence on the provincial, as well as, central affairs. The first cabinet of Pakistan was also created by Quaid-i-Azam Jinnah, after a continuous search for talented administrators.

**The first cabinet of Pakistan took oath on 15th August 1947**.

It included the following members:

Liaquat Ali Khan Prime Minister, Minister for Foreign Affairs and Defense

I.I. Chundrigar Minister for Commerce, Industries and Works

Sardar Abdur Rab Nishtar Minister for Communication

Raja Ghazanfar Ali Minister for Food, Agriculture and Health (In December he was shifted to Evacuee and Refugee Rehabilitation).

Jogendra Nath Mandal Minister for Labour and Law

Ghulam Muhammad Minister for Finance

Fazlur Rahman Minister for Interior, Information and Education

In December Muhammad Zafrullah Khan was inducted as Minister for Foreign Affairs and Common wealth relations and Abdus Sattar Pirzada was given the portfolio of Food, Agriculture and Health. Raja Ghazanfar Ali’s ministry was changed and he was made in charge of the Ministry of Evacuee and Refugee Rehabilitation.

Quaid-i-Azam also asked for many skilled British technocrats to stay and serve in the Pakistani government; 3 out of the 4 provincial governors were British. Sir Frederick Bourne was the Governor of East Benga, Sir Francis Mudie the Governor of West Punjab and Sir George Cunningham the Governor of N.W.F.P. Sir Ghulam Hussain Hidayatullah, the Governor of Sindh) was the only local governor, while Balochistan did not have a governor as it was Governor-General’s province. All chiefs of the armed forces were British as well – General Sir Frank Messervey chief of the Royal Pakistan Army, Air Vice-Marshal Perry-Keane chief of the Royal Pakistan Air Force, and Admiral Jefford the chief of Royal Pakistan Navy. The financial advisor to the Governor-General, Sir Archibald Rowland, was also British.

During the early days after its creation, Pakistan faced a myriad of crisis and difficulties and the ministers often found themselves helpless to tackle them; so they looked towards Jinnah to help them with these problems. The first cabinet of Pakistan passed a special resolution to allow Jinnah to deal with the problems faced by provincial ministers. Jinnah also helped ministers in policy making. In case of a difference of opinions Quaid’s decision was to be final. All these rights were given to Jinnah until new constitution came into force.

Quaid had a colossal task ahead of him, during the early days of Pakistan but he remained committed in his duties and under his dynamic leadership and guidance the nation proved that it had the determination to succeed. Quaid-i-Azam Jinnah, undoubtedly enjoyed extraordinary powers but these powers were given to him by the Cabinet to meet the unexpected circumstances that clearly demanded extraordinary actions.

Even though nation building has proved to be a difficult task for Pakistan, under the guidance of Jinnah and his competent cabinet members it continued to show its spirit and capacity to survive and adapt to changing circumstances. James A. Muchener, a visitor to Pakistan in the early years, wrote, “I have never seen so hardworking a government as Pakistan’s. It is literally licking itself by its own intellectual book-straps”.