

# ***Opposition's Dominant Voice: Mian Iftikhar-ud-Din's Stance on Constitutional Issues***

**Kausar Parveen\***

## **ABSTRACT**

*An 'Opposition' is an important part of a political system which represents dissent and disagreement on the government's policies. Besides, it is significant in the sense that it presents alternative policy proposals. As democracy is based on the collective wisdom of the people, it rejects the individual claim of the whole truth or wisdom. Therefore, democratic system needs to pay heed to the opposite or different point of view as well and modify policies accordingly. During the early years of independence, framing of the Constitution was the most momentous task. There was ample dissent between the government and the opposition on constitutional issues. Mian Iftikhar-ud-Din was an opposition leader of gigantic stature who had concrete opinion on constitutional issues such as role of religion, in the polity, security acts, centralization Vs. national-building, plural polity Vs. separate electorates etc. in the framing of the first Constitution. Later developments proved his prudence. It would be significant to review his role in the framing of first Constitution of Pakistan to analyze if opposition has valid alternative proposals which may be*

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\* Assistant Professor, Department of History, Allama Iqbal Open University (AIU), Islamabad.

*helpful to manage many pitfalls. This paper attempts to present an appraisal of his stance on major contemporary constitutional issues debated inside and outside the Constituent Assembly.*

### **Introduction**

During the early years of creation of Pakistan, the Pakistan Muslim League (PML) government and the opposition had different perceptions regarding the future directions of the new state of Pakistan. The PML government wanted to stabilize the state through building up of state institutions whereas the opposition wanted nation-building through educating and training people and building up of civic institutions. The PML government was more concerned about the security of the state due to the internal and external threats. Mian Iftikhar-ud-Din was a dominant voice who presented opposition's stance loud and clear. He criticized the PML government's reliance on ordinances for governance particularly the continuation of British imperialist legislation to curb civil liberties. He was sensitive about the protection of fundamental rights of the people particularly the rights of minorities. He opposed centralization and proposed confederation for the two wings devolving power to regional levels. He supported the proposal of zonal sub-federation for West Pakistan instead of One Unit. He suggested both Urdu and Bengali should be declared as national languages and regional languages must be developed simultaneously. He campaigned for the joint electorates for the unity and development of the Pakistani nation. Though, he demanded dissolution of the first Constituent Assembly and fresh elections, yet he criticized the governor-general's authoritarian and unlawful act of dissolving it and supported Assembly's legislation and decisions.

### **Biographical Sketch**

Mian Iftikhar-ud-Din was born on April 8, 1907 in Lahore. His father Khan Bahadur Mian Jamal al-Din belonged to an affluent Mian Arain family of Baghbanpura, Lahore, which migrated from Arabia to Egypt and afterwards, to the Indian

subcontinent in the 11<sup>th</sup> Century and settled at Ishaqpur near Lahore. When Emperor Shah Jahan selected the place for Shalimar Gardens, he granted the family with two revenue-free villages and the custodianship of the gardens. The family built a new village named Baghbanpura near Lahore. It was closely connected to the Sikh and the British regimes, and was highly educated as many of its members were educated at Oxford and Cambridge Universities.<sup>1</sup> Mian Iftikhar-ud-Din initially educated at Aitcheson College Lahore, and later went to Balliol College Oxford. He graduated and returned to India in 1932.<sup>2</sup>

Mian Iftikhar-ud-Din joined the Indian National Congress in 1936 and elected member of the Punjab Legislative Assembly in the elections of 1937.<sup>3</sup> He attended the first Progressive Writers' Association Conference at Lucknow in 1936 and signed its manifesto which proved instrumental in the formation of the Congress Socialist Party in 1938.<sup>4</sup> He served as president of the Punjab Provincial Congress during 1940-1945. He supported the proposal of Rajagopalachari to accept the demand for Pakistan at the All India Congress Committee (AICC) meeting at Allahabad in 1942.<sup>5</sup> He was imprisoned during Satyagraha in 1940 and the 'Quit India Movement' during 1942-1945.<sup>6</sup> Disappointed with the attitude of the Congress leadership and supporting the right of self-determination of the Muslims, he resigned

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1 Khizr Humayun Ansari, *The Emergence of Socialist Thought in North-Indian Muslims, 1971-1947* (Karachi: Oxford University Press, 2015), 341-42.

2 Ansari, *The Emergence of Socialist Thought in North-Indian Muslims*, 341-42.

3 Ali Raza, "The Illusory Promise of Freedom: Mian Iftikhar-ud-Din and the Movement for Pakistan," In *Muslims against the Muslim League: Critiques of the Idea of Pakistan*, ed., Ali Usman Qasmi and Megan Eaton Robb (UK: Cambridge University Press, 2017), 169.

4 Ansari, *The Emergence of Socialist Thought in North-Indian Muslims*, 342. Kamran Asdar Ali mentions that he was active in Kisan Front and instrumental in the formation of Congress Socialist Party. Kamran Asdar Ali, "Progressives, Punjab and Pakistan: The Early Years," *South Asian History and Culture* 4, no. 4 (2013): 486.

5 Raza, "The Illusory Promise of Freedom," 173.

6 Ansari, *The Emergence of Socialist Thought in North-Indian Muslims*, 342.

from the Indian National Congress and joined the All India Muslim League in October 1945<sup>7</sup> which “proved more beneficial to the Muslim League than to the communists” as it cemented League’s alliance with the communists”.<sup>8</sup> He was elected president of the Punjab Muslim League in November 1937, and escorted the ML’s Civil Disobedience Movement in 1946.<sup>9</sup> He was instrumental in drafting the election manifesto for the Punjab Muslim League in the elections of 1946-47 with “progressive pledges” such as nationalization of key industries and banks, control of private industry, improvement in the standard of living and labour conditions for all individuals. Agricultural reforms included reduction of debt, credit facilities, state guaranteed prices, extension of Land Alienation Act, and provision of state land to poor individuals and general welfare and advancement of all agricultural classes irrespective of religious affiliation. The Muslim League won the elections due to these promises.<sup>10</sup>

There were various interest groups in the Punjab Muslim League. The most influentials were the local landlords of the West Punjab. After independence, though Mian Iftikhar-ud-Din became minister for rehabilitation of refugees in the Punjab cabinet, he could not continue due to opposition from reactionary groups to their progressive socio-economic proposals as called for raising taxes on landlords and private incomes, providing financial support to unemployed refugees, rapid industrialization and nationalization of major industries and a more equitable distribution of national wealth. Besides, he advocated breaking up of large estates

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7 Kamran Asdar Ali points out that Mian Iftikhar-ud-Din was persuaded by his friends in the Communist Party to resign from the Congress and join the Muslim League to promote the agenda of Muslim self-determination. Ali, “Progressives, Punjab and Pakistan,” 486.

8 Ayesha Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam Since 1850* (Great Britain: Routledge: 2000), 445.

9 Ansari, *The Emergence of Socialist Thought in North-Indian Muslims*, 342.

10 Raza, “The Illusory Promise of Freedom,” 177. Kamran Asdar Ali also comments that “It remains one of the most progressive documents of Muslim League’s pre-independence history.” Ali, “Progressives, Punjab and Pakistan,” 487.

and their distribution among refugees.<sup>11</sup> He also proposed complete reorganization of agrarian sector with 50-acre ceiling on landholdings.<sup>12</sup>

Disappointed with the response of the Pakistan Muslim League, Mian Iftikha-ud-Din resigned from the Punjab Cabinet.<sup>13</sup> Afterwards, he vehemently began to criticize the policies of the PML in the assemblies and in the print media. Ignoring warnings of Liaquat Ali Khan, he criticized the 'Public Safety and Security' ordinances, the Muslim League's policy towards the princely states and on the issue of justice for minorities in the Constituent Assembly in 1950.<sup>14</sup> Consequently, he was removed from the Muslim League Parliamentary Party, and then expelled from the party in April 1950.<sup>15</sup> He pointed out that with the Muslim League two out of three objectives had been achieved; the independence and the establishment of a state. The third objective "the achievement of complete economic, political and social justice remained unfulfilled".<sup>16</sup> To realize the third objective, he launched his Azad Pakistan Party (APP) to bring socio-economic change in the country.

Mian Iftikhar-ud-Din established APP along with Sardar Shaukat Hayat Khan (1915-1998) on November 10, 1950. It was the non-communal Muslim opposition party which never enjoyed grassroot support and was confined to some sections of West Pakistan such as labour groups and peasants in Lahore, Faisalabad and Karachi.<sup>17</sup> Only one APP candidate succeeded out of 30 candidates in the Punjab elections of 1951. Mian Iftikhar-ud-Din along with

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11 Farzana Sheikh, *Making Sense of Pakistan* (USA: Oxford University Press, 2018), 123.

12 Abdullah Malik, ed., *Selected Speeches and Statements: Mian Iftikhar-ud-Din* (Lahore: Nigarishat, 1971), 57.

13 Malik, *Selected Speeches and Statements*, 63-66.

14 Malik, *Selected Speeches and Statements*, 157-59.

15 Malik, *Selected Speeches and Statements*.

16 Raza, "The Illusory Promise of Freedom," 184.

17 Cesar P. Pobre, "History of Political Parties in Pakistan 1947-58," (PhD Dissertation, University of Karachi, 1976), 237.

Sardar Shaukat Hayat Khan and Sardar Asadullah Jan organized its parliamentary party in April 1951 in the Constituent Assembly of Pakistan. He was vocal on contemporary issues within the assemblies<sup>18</sup> and in print media. He had most shares in the Progressive Papers Ltd., proprietors of two leftist dailies, the *Pakistan Times* and *Imroz* and Weekly *Lail-o-Nihar* in 1957.<sup>19</sup>

The main objective of the APP was to provide a socio-economic programme to eliminate feudal system and bring about economic justice, liberty and democracy.<sup>20</sup> Besides, repeal of the Safety Ordinances; dissolution of the Constituent Assembly and its re-election on the basis of adult franchise; complete autonomy for the provinces and abolition of the *zamindari* system; an independent foreign policy; compulsory military training and sponsoring of 'a people's revolution' in Kashmir were its major objectives.<sup>21</sup> Mian Iftikhar-ud-Din wanted a loose confederation of ethnic and linguistic provinces, leaving only Defence, Communication and Foreign Affairs with the Center.<sup>22</sup> Due to his support to the cause of socialist reorganization of society, and his party programme resemblance with the Communist Party of Pakistan (CPP), when the CPP was banned in 1954 due to Rawalpindi Conspiracy Case<sup>23</sup>, most of its members joined the APP. The APP joined West-Pakistan based leftist

18 *Constituent Assembly of Pakistan, Debates*, Vol. I, no.1 (March 27, 1952), 608-609; no. 13 (March 29, 1952), 790-91.

19 K. K. Aziz, *Party Politics in Pakistan, 1947-58* (Islamabad: National Commission on Historical and Cultural Research, 1976), 115-16.

20 *The Pakistan Times*, November 12, 1950.

21 M. Rafique Afzal, *Political Parties in Pakistan 1947-58*, Vol. I (Islamabad: National Commission on Historical and Cultural Research, 1976), 84.

22 *The Pakistan Times*, October 7, 1953.

23 It was an abortive *coup* against an elected government of the PML. Liaquat Ali Khan was the Prime Minister. A senior commander of the armed forces Major General Akbar Khan was the mastermind. He was annoyed over government's Kashmir policy. Some leftist politicians of the CPP supported the plan. The CPP was banned due to involvement in the attempted *coup*. See, Hassan Zaheer, *The Times and Trials of the Rawalpindi Conspiracy Case 1951: The First Coup Attempt in Pakistan* (Karachi: Oxford University Press, 1998).

alliance of Pakistan National Party (PNP) in September 1956.<sup>24</sup> Later on, these leftist opposition parties organized the platform of National Awami Party (NAP) to exert their influence at national level.<sup>25</sup>

### **Political Views of Mian Iftikhar-ud-Din**

The circumstances in which Pakistan came into existence created a kind of insecurity among the government and the people. The two hostile neighbours; India and Afghanistan multiplied with Communist menace produced external security threats. The refugee problem, lack of administrative staff, lack of necessary equipment, generated a fear of internal collapse of administration. The new nation state had to start from scratch. The principal challenge was to develop consensus on the contemporary constitutional and political issues. These issues were heatedly debated on the floor of the Constituent Assembly and print media. These issues are significant to review as some of them are constantly haunting and the nation is far from convergence to resolve them. Besides, it is significant to examine the response of the contemporary leadership particularly the rulers to handle these issues.

Pakistan inherited a Constituent Assembly with a dual role of Legislative Assembly as well. In this Assembly, the Pakistan Muslim League (PML) was holding the government benches and the Pakistan National Congress (PNC) were on the opposition benches. Mian Iftikhar-ud-Din formed the Azad Pakistan Party (APP) within the Assembly on the opposition benches. He was the driving force of the party passionately expressing his views on all legislative initiatives. His speeches formed the public opinion on the contemporary issues and provided alternatives to constitutional proposals which seem quite comprehensive and operative when analyzing through the hindsight of a historian. The ensuing

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24 *Dawn*, September 10, 1956.

25 Afzal, *Political Parties in Pakistan*, Vol. I, 86.

pages provide an appraisal of his views on the constitutional matters regarding the Constitution of 1956.

### **Role of Religion in the Polity**

The Objectives Resolution was the first major legislative initiative of the PML government. Its first clause reads: "Whereas sovereignty over the entire universe belongs to God Almighty alone and the authority which He has delegated to the State of Pakistan through its people for being exercised within the limits prescribed by Him is a sacred trust."<sup>26</sup> The members of the PNC opposed the clause that it gives constitution a "theocratic approach".<sup>27</sup> Mian Iftikhar-ud-Din dismissed opposition's objection asserting that "all the constitutions of the world start with similar words". Responding to the movers of the resolution, he asserted that the above statement is not novel. He referred to the countries of British Empire which derive authority through the agency of the king from God.<sup>28</sup> He pointed out that "state distinct from the people, having derived the authority from God" might lead to "mischievous interpretations".<sup>29</sup> He asserted that the final authority to decide on the limits and the rights of the people are the people themselves. He warned that in future the state or the party in power may declare that the people have exceeded the limits prescribed by the Allah Almighty and refuse to obey the people. He emphasized that the members of the Constituent Assembly should anticipate such state or party.<sup>30</sup> His prophecy proved true in the ensuing years when the elected governments were dismissed by the Martial Law administrators on such pretexts.

Mian Iftikhar-ud-Din further elaborated that "the Muslims can appeal to no other authority on earth than the people as the

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26 *Constituent Assembly of Pakistan, Debates, Official Report*. Vol. V, 5th Session (March 10, 1949), 57.

27 *Constituent Assembly of Pakistan, Debates, Official Report*. Vol. V, 51.

28 *Constituent Assembly of Pakistan, Debates, Official Report*. Vol. V, 51.

29 *Constituent Assembly of Pakistan, Debates, Official Report*. Vol. V, 51.

30 *Constituent Assembly of Pakistan*, 52.



Muslims have no priests like the Roman Catholic countries, whose people can appeal to the pope or to the priesthood.”<sup>31</sup> He declared that if the “state loses the confidence of the people then it should cease to exist.”<sup>32</sup> He cited the example of the Unionist Party. It was an elected government before partition but when it lost the confidence of the people, people refused to obey it.<sup>33</sup> He asserted that the Resolution failed to meet the expectations in the field of politics, economics and social justice. Only the use of word “Islamic State” cannot guarantee justice and equality. Referring to the clause “Wherein the principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam shall be fully observed,”<sup>34</sup> he insisted that these concepts must be elaborated in the Resolution. The Resolution must explain how the principles of Islamic political ideology would function when practiced. He feared that with these flaws, the Constitution of Pakistan would introduce “passive democracy rather than an active and dynamic democracy”.<sup>35</sup>

### **Safety Acts**

Mian Iftikhar-ud-Din was particularly sensitive on the issue of fundamental rights. He identified the Pakistan Public Safety Ordinance introduced on August 8, 1949 with the British imperialism. The British government promulgated the safety and security laws to detain political workers without trial and to control press. These laws were the symbol of British repressive governance. He pointed out that both the All India Muslim League and the Indian National Congress struggled against these laws. He led the ML Civil Disobedience Movement against these laws in 1947. Thus, he condemned these laws as these might be used against the political opponents. His fears become reality when the Ayub Khan Government used the amended version of the Security Act

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31 *Constituent Assembly of Pakistan*, 52.

32 *Constituent Assembly of Pakistan*, 52.

33 *Constituent Assembly of Pakistan*, 52.

34 *Constituent Assembly of Pakistan*, 58.

35 *Constituent Assembly of Pakistan, Debates, Official Report*, Vol. V, 53-54.

of Pakistan and took over his newspapers *The Pakistan Times* and *Imroz*.

Mian Iftikhar-ud-Din persuaded eight non-official members<sup>36</sup> of the Constituent Assembly from the Punjab to support the following resolution to denounce this Ordinance. It stated that:

.... Pakistan Government ...pass an Ordinance suppressing the freedom of the Press, speech and political development.... an important measure of this nature should have been enacted into law ... consultation with the elected representatives of the people ....no emergency exists today which justifies the enactment of a war time legislation.... there are already Safety Acts ...in the Provinces and there is a general demand ... for their repeal. There was...hope that the civil liberties will be restored to the people ...instead the country has been subjected to a fascist measure which will spread panic and fear in the mind of everyone. The people of the West Punjab, who launched their historic struggle against this very legislation ... shocked at its sanctification by the Pakistan Government ... [as] Central Ordinance. To the people of West Punjab, struggle against the Safety Act and the fight for the freedom had become synonymous and [it] is reminiscent of the dark days of the Unionists and a betrayal of the ideals ...in the demand for Pakistan. This complete suppression of the right of free speech, association and elementary civic rights prevents even the formation of a political opposition party which is essential for the successful working of a democratic government.<sup>37</sup>

Prof. Raj Kumar Chakravarty of the PNC from East Bengal, tendered a notice to move the resolution in the Constituent Assembly stating, "This Assembly is of opinion that a circular be issued by Government for the information of the public and officials stating that criticism of any ministry or government will not be construed as criticism of the state or an act of disloyalty on the part of a citizen."<sup>38</sup> A meeting of

36 The resolution was signed by Begum Shah Nawaz, Feroze Khan Noon, Nawab of Mamdot, Dr. Omar Hayat Malik, Mumtaz Daultana, Mian Iftikhar-ud-Din, Sardar Shaukat Hayat and Sheikh Karamat Ali.

37 *Constituent Assembly of Pakistan, Debates*, Vol. II, no. 10 (November 24, 1952), 583-84; *The Pakistan Times*, October 11, 1949 cited in Malik, ed., *Selected Speeches and Statements: Mian Iftikhar-ud-Din*, 159-60.

38 *The Pakistan Times*, October 11, 1949 cited in Malik, ed., *Selected Speeches and Statements*, 158.

the PML parliamentary party on January 3, 1950 opposed this resolution. Mian Iftikhar-ud-Din disagreed with the party policy. Though opposing it on the floor of the House, he criticised the PML government for his repressive policies and ordinances which compelled the minority member to move this kind of resolution.<sup>39</sup> He condemned the Safety Ordinance as "the greatest blunder of our time in enforcing a law ... synonymous with slavery".<sup>40</sup> He regretted that the PML leadership betrayed the trust and backed out of the pledges with the people. He called the January 6, 1950 the Blackest Day in the history of Legislature.<sup>41</sup> In the Constituent Assembly on March 22, 1950, he quoted Kipling that "What do they know of England who only England know" and referring to the Cabinet he ironically remarked, "What do they know of freedom, who only know freedom".<sup>42</sup>

The PML government introduced The Pakistan Public Safety (Amendment) Bill in the Constituent Assembly on April 8, 1950. Mian Iftikhar-ud-Din opposed on the grounds that the then government had used this law against the clerks, peasants, and trade union leaders. He warned that "there is ...no emergency before the people of Pakistan; greater emergency than... the impending total loss of their freedom, freedom won after decades of struggle and after centuries of slavery."<sup>43</sup> He asked the PML government to end emergency to enable the people to counter other threats to the realization of liberty.<sup>44</sup>

Speaking on The Restriction and Detention (Second Amendment) Bill in the Constituent Assembly on November

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39 *The Pakistan Times*, October 11, 1949 cited in Malik, ed., *Selected Speeches and Statements*, 158-62.

40 *Constituent Assembly of Pakistan, Debates*, Vol. VI, no. 3 (January 6, 1950), 41.

41 *Constituent Assembly of Pakistan*, 40.

42 *Constituent Assembly of Pakistan, Debates*, Vol. I, no. 8 (March 22, 1950), 300.

43 *Constituent Assembly of Pakistan, Debates*, Vol. I, no. 19 (April 8, 1950), 717.

44 *Constituent Assembly of Pakistan, Debates*, 718.

14, 1952, Mian Iftikhar-ud-Din called it “a symbol of slavery and ...inimical to freedom” and declared that “for the people of Pakistan the fight against Security Acts ... synonymous with the fight for Pakistan.”<sup>45</sup> Besides, he regretted that all the true freedom fighters were in opposition and the people who served the British government were enjoying power and deciding the fate of the people particularly referring to Khan Abdul Ghaffar Khan, G. M. Syed, Maulana Bhashani, Hussain Shaheed Suhrawardy, Abul Hashim, and Pir Manki Sharif.<sup>46</sup>

The PML government presented The Pakistan Essential Services Bill in the Constituent Assembly on November 24, 1952 to empower the government to declare any service, organization or institution as ‘essential’ and strike in such organization was illegal. The British government in the last phase of freedom movement promulgated this law in 1941 to curb the wave of strikes. With the end of ‘national emergency’ in 1946, this law also expired. After independence, this law was revived and expanded providing powers to the provincial governments. Mian Iftikhar-ud-Din opposed it as it was to stifle the aspirations of the working classes. He declared that it was “Worse than the Safety Act. Safety Act relates to the political life of an individual ... [and] this bill affect the life of an individual in all other spheres...”.<sup>47</sup> He advised the government that departments should be declared as essential with greater care and essential services should be notified to the public. Besides, only those services should be declared essential without which the community could not function smoothly.<sup>48</sup> The Ayub Khan government used this law against the Progressive Papers Limited and took over its control.<sup>49</sup>

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45 *Constituent Assembly of Pakistan, Debates*, Vol. II, no. 3 (November 14, 1952), 187.

46 *Constituent Assembly of Pakistan*, 188-89.

47 *Constituent Assembly of Pakistan, Debates* Vol. II, no. 10 (November 24, 1952), 566.

48 *Constituent Assembly of Pakistan, Debates*, 568-69.

49 Malik, ed., *Selected Speeches and Statements*, 201.

## Constitution-Making

After the adoption of the Objectives Resolution, a Basic Principles Committee (BPC) of 25 members<sup>50</sup> under the chairmanship of Maulvi Tamizuddin Khan was set up on March 12, 1949, to recommend the basic principles for the future constitution of Pakistan. Mian Iftikhar-ud-Din was its member. It recommended among other things a bicameral legislative system with parity formula called Principle of Parity to create a balance of power between East and West Pakistan through equal representation to both. A House of Units comprising 120 members to be elected by provincial legislature and a House of the People comprising 400 members elected through direct adult franchise was proposed. The proposed structure was a federation, yet the central government was assigned a long list of subjects.

The committee took almost four years to prepare its report, and its copies were provided to the members only few hours prior to the signatures. Consequently, most of the members signed it without reading it. Mian Iftikhar-ud-Din sent a letter to the President of the Constituent Assembly with a note of dissent on this report stating that the Committee did not publish this note on technical grounds. He declared in his 'note of dissent that this report is "absolutely unsatisfactory and unsuited to the needs and aspirations of our people."<sup>51</sup>

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50 The committee consisted of the President and the members; i) Sir Muhammad Zafrullah Khan, ii) Mr. Ghulam Muhammad iii) Sardar Abdur Rab Khan Nishtar, iv) Khawaja Shahabuddin, v) Pirzada Abdus Sattar, vi) Mr. Fazul Rahman, vii) Mr. Jogendra Nath Mandal, viii) Maulana Shabbir Ahmad Osmani, ix) Dr. Omar Hayat Malik, x) Dr. Ishtiaq Hussain Qureshi, xi) Mr. Kamini Kumar Datta, xii) Begum Jahan Ara Shah Nawaz, xiii) Malik Muhammad Firoz Khan Noon, xiv) Sris Chandra Charropadhyaya, xv) Mian Mumtaz Khan Daultana, xvi) Maulana Mohammad Akram Khan, xvii) Mian Mohammad Iftikharuddin, xviii) Khan Sardar Bahadur Khan, xix) Dr. Mahmud Husain, xx) Begum Shaista Suharwardy Ikramullah, xxi) Mr. Prem Hari Barma, xxii) Chaudhury Nazir Ahmad Khan, xxiii) Sheikh Karamat Ali and xxiv) Liaquat Ali Khan, be appointed, with powers to co-opt not more than ten members, who need not be members of the Constituent Assembly...The presence of at least seven members shall be necessary to constitute a meeting of its Committee. *Constituent Assembly of Pakistan, Debates*, Vol. V (March 12, 1949), 101-102.

51 Malik, ed., *Selected Speeches and Statements*, 372-73.

He asserted that in some important respects the present constitution falls far short of even the ... Government of India Act 1935.”<sup>52</sup> He informed that “it was very unfair to the members of the Committee to circulate the report [of eighty pages] to them in its final form only two and a half hours before meeting started and to expect them to pen their signatures without reading it.”<sup>53</sup> He referred to it as a “historic document”<sup>54</sup> that should be thoroughly examined and studied before approval. He demanded that his reasons for the reconsideration of the report should be printed along with the main report. He referred to the rules of “Parliamentary Practice” that “If minute of dissent is submitted, the Committee had to accept it, and nobody could reject it.”<sup>55</sup>

Due to severe criticism of the Punjab-based opposition parties including the All-Pakistan Jinnah Awami Muslim League (APJML), the Jamaat-i-Islami Pakistan (JIP), the Azad Pakistan Party (APP) and the Majlis-i-Ahrar (Ahrars), the discussion on the report was postponed in the Constituent Assembly.<sup>56</sup> Meanwhile, Muhammad Ali Bogra sworn in as the Prime Minister offered his own version of Parity Principle with 30 percent clause in the Legislative Assembly. Mian Iftikhar-ud-Din was critical of the entire “Bogra Formula”,<sup>57</sup> particularly the 30 percent clause. In his speech in the Constituent Assembly on October 7, 1953, he referred to it as “a worthless formula... because it will create difficulties in the democratic working of ... [the] constitution”.<sup>58</sup> In another speech, he warned that Bogra Formula would highlight the existing differences and would

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52 Malik, ed., *Selected Speeches and Statements*, 372-73.

53 Malik, ed., *Selected Speeches and Statements*, 373.

54 Malik, ed., *Selected Speeches and Statements*, 375.

55 Malik, ed., *Selected Speeches and Statements*, 374.

56 Afzal, *Political Parties in Pakistan*, Vol. I, 148.

57 The Prime Minister Muhammad Ali Bogra revised the parity principle with adding 30 percent clause on major legislation in the Assemblies. This is generally called “Bogra Formula”.

58 *Constituent Assembly of Pakistan, Debates*, Vol. XV, no. 2 (October 7, 1953), 20.

open the door for inter-provincial intrigue. He predicted that the 30 percent clause would lead to “an undemocratic government in power in this House, because if Bengal has 71 percent votes, no other government can be formed” and with 30 percent clause all initiative would lie with Bengal.”<sup>59</sup>

Mian Iftikhar-ud-Din moved three amendments in the report of the Basic Principles Committee Paragraph 2-sub-Paragraph (10) on October 28, 1953. First was “... for the word ‘Muslims’, occurring in the second line, the word ‘people’ be substituted.” The second was “... for the word ‘un-Islamic’, occurring in the third line, the word ‘unpatriotic’ be substituted.” The third was “... for the word ‘Millat’ occurring in the fifth line, the word ‘Nation’ be substituted.”<sup>60</sup> The reason for these amendments was to apply this clause on both the Muslims and the non-Muslims, otherwise it would be injustice to the minorities and the downtrodden. Other opposition members Shri Dharendra Nath Datta and Bhabesh Chandra Nanday supported Mian Iftikhar-ud-Din’s amendments arguing that parochial feelings among citizens of Pakistan would endanger the integrity of Pakistan.<sup>61</sup> Shri Sris Chandra Chattopadhyay argued that the word ‘nation’ should be elaborated. If ‘nation’ means territory, then Pakistan must discard the two-nation theory. He asserted that when India was divided into two states, the two-nation theory stood irrelevant.<sup>62</sup>

Mian Iftikhar-ud-Din moved another amendment, “and lend all possible help to other subjugated people in the achievement of their national liberation”<sup>63</sup> to be added at the end of sub-paragraph (11) of paragraph 2 on October 28, 1953. He complained that Pakistan was only paying “lip-

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59 *Constituent Assembly of Pakistan, Debates*, Vol. XV, no. 11 (October 22, 1953), 295-96.

60 *Constituent Assembly of Pakistan, Debates*, Vol. XV, no. 16 (October 28, 1953), 535.

61 *Constituent Assembly of Pakistan, Debates*, 536-37.

62 *Constituent Assembly of Pakistan, Debates*, 537-38.

63 *Constituent Assembly of Pakistan, Debates*, 549.

service” to the cause of subjugated people. He suggested that Pakistan would be strengthened “by aligning with the backward and subjugated people of the world”.<sup>64</sup> The official members reiterated that Pakistan consistently supporting subjugated people and proposed to the drafting committee to accommodate the amendment with suitable words.

Speaking on the Directive Principles of State Policy in the Constituent Assembly on October 28, 1953, Mian Iftikhar-ud-Din moved the amendment, “That for sub-paragraph (17) of paragraph 2, the following be substituted: “steps should be taken to provide social security for all persons in Government and private employment by means of compulsory social insurance and such other measures as may be necessary”.<sup>65</sup> Besides, he proposed on October 29, 1953 “that to paragraph 2, the following new sub-paragraph (19) be added at the end: ‘There should be no detention without trial’”.<sup>66</sup> Elaborating this amendment, he asserted that fair trial is the fundamental right of a person which should not be violated. He also quoted Muhammad Ali Jinnah who said in 1924 that, “Sir! I am not one of those men who encourage any crime or any offence, but I do maintain, and I have drunk deep at the fountain of constitutional law that the liberty of a man is the dearest thing in the law of any constitution, and it should not be taken away in this fashion.”<sup>67</sup>

Mian Iftikhar-ud-Din also referred to Jinnah’s another speech at the Central Assembly on January 28, 1925 that “my liberty should not be taken away without a judicial trial in a proper court where I have all the right to defend myself.... If I were an official and if I felt that my life was in danger and I was going to be shot down, even like a dog, I should never be a

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64 *Constituent Assembly of Pakistan, Debates*, 550.

65 *Constituent Assembly of Pakistan, Debates*, Vol. XV, no. 16 (October 28, 1953), 559.

66 *Constituent Assembly of Pakistan, Debates*, Vol. XV, no. 17 (October 29, 1953), 574.

67 *Constituent Assembly of Pakistan, Debates*, 574.



party to a measure which will endanger the life and liberty of the innocent population as this measure undoubtedly does. But rather I would stand and be shot down by that wicked gang, than give power to the executive and the police which can be abused and has been abused in the past...."<sup>68</sup> Despite his strong arguments, the House rejected this motion.<sup>69</sup>

### **Sovereignty of the Constituent Assembly**

Mian Iftikhar-ud-Din was a critic of the unrepresentative character of the Constituent Assembly. He always demanded its dissolution and holding of elections on adult franchise basis.<sup>70</sup> When the governor-general Ghulam Muhammad dissolved it on October 24, 1954, he condemned it on the grounds that it was done not for the sake of democracy but to retain powers of the governor-general. The Chief Justice of Federal Court, Justice Muhammad Munir upheld the dissolution. Through another judgement, Justice Munir bound the governor-general to convene another constituent assembly.

The Law Minister Hussain Shaheed Suhrawardy proposed a constituent convention asserting that its rejection means incur for chaos or the Martial Law in the country. Responding to this statement, Mian Iftikhar-ud-Din addressed a press conference and criticised Hussain Shaheed Suhrawardy's statement. He said that "the Law Minister has come forward as an apologist and defender of the Muslim League regime's past actions, present policies and future plans."<sup>71</sup> He demanded that "the governor-general should take steps to set up an Interim Parliament, to which the central government would be responsible and to order direct elections for a new Constituent Assembly on adult

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68 *Constituent Assembly of Pakistan, Debates*, 574.

69 *Constituent Assembly of Pakistan, Debates*, 583.

70 *Constituent Assembly of Pakistan, Debates*, Vol. II, no. 4 (October 11, 1956), 236.

71 *The Pakistan Times*, April 23, 1953 cited in Malik, ed., *Selected Speeches and Statements*, 430.

franchise.”<sup>72</sup> The government ignored these suggestions and second Constituent Assembly was constituted from the existing provincial assemblies.

Mian Iftikhar-ud-Din raised an important issue regarding the dissolution of the Constituent Assembly as “whether the decisions of the Constituent Assembly as a sovereign body are final or those decisions can be set aside by the Head of the State.”<sup>73</sup> In the second Constituent Assembly, when the Law Minister Hussain Shaheed Suhrawardy presented Validation of Laws Bill and informed the House that the governor-general gave assent to only thirty-six bills out of forty-four, Mian Iftikhar-ud-Din responded that the “Assembly is a sovereign body, no matter what Bills it passes, how ridiculous or how undemocratic its enactment at times may be, no Head of the State has a right to pick and choose in giving his assent to those enactments.”<sup>74</sup>

Mian Iftikhar-ud-Din’s comprehensive speech in the Constituent Assembly<sup>75</sup> on October 22, 1953 presents his views on major constitutional issues relating to the unity and democracy of Pakistan. He referred to some misconceptions of the political elite of Pakistan on which Pakistan’s future polity and constitution was being formed. In the ensuing pages, these are discussed and analysed.

### **Centralized System Vs. Nation-building**

Mian Iftikhar-ud-Din pointed out that political leadership was confusing unity with the centralized system. If centralisation of an authority means unity, then the existence of district boards with so many departments would lead to disruption. In fact, centralisation and over-centralization leads to disunity. Subjects must be allocated based on

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72 Malik, ed., *Selected Speeches and Statements*, 434.

73 *Constituent Assembly of Pakistan, Debates*, Vol. 1 no. 3 (July 11, 1955), 84.

74 *Constituent Assembly of Pakistan, Debates*.

75 *Constituent Assembly of Pakistan, Debates*, Vol. XV, no. 11 (October 22, 1953), 295-96.

convenience.<sup>76</sup> He criticized One-Unit as a major step towards centralization of the state. Besides, he also opposed it as a measure to strike parity between East and West Pakistan by generating two provinces within the federation of Pakistan. Speaking in the Constituent Assembly of Pakistan on September 8, 1955, he strongly criticised the leadership who believed centralization would lead to unity. In his opinion, "If Sindhis... Balochis and Pathans are unfairly denied their rights... would they not even under One Unit be able to intrigue with the representatives of Bengal? After all, people are to be elected from their own areas even under One Unit."<sup>77</sup> He warned that without provincial assemblies, 'bureaucracy would abuse power leading to administratively controlled democracy.'<sup>78</sup>

Mian Iftikhar-ud-Din pointed to the One Unit Bill in this regard and asserted its purpose to perpetuate certain groups in power referring to the title of the Bill as "the establishment of West Pakistan for integrating provinces and for other purposes."<sup>79</sup> He concluded at the third reading of the Bill on September 30, 1955 that the present scheme should be replaced with zonal sub-federation scheme proposed by Feroz Khan Noon.<sup>80</sup> Abu'l Mansur Ahmad, the leader of AL, also supported it.<sup>81</sup> The government ignored the opinion of the opposition leaders and the West Pakistan Merger Bill was passed on September 30, 1955 with a majority of 43

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76 *Constituent Assembly of Pakistan*, 297.

77 *Constituent Assembly of Pakistan*, 298.

78 *Constituent Assembly of Pakistan*, 299-300.

79 *Constituent Assembly of Pakistan, Debates*, Vol. 1, no. 20, Part 1, 605-611.

80 *Constituent Assembly of Pakistan*, 605-611; no. 21, 637; no. 38, 1464-1465; *Dawn*, September 2, 1955. Zonal Sub-federation advocated (i) linguistic provinces in West Pakistan, with legislative powers over subjects in the Provincial List of the Government of India Act 1935; (ii) a sub-federation of provinces, having all the other subjects, except defence, foreign affairs, currency and banking and with powers similar to those of East Pakistan; (iii) the three remaining subjects going to an all-Pakistan Federation. *Dawn*, September 2, 1955

81 *Dawn*, September 2, 1955.

votes against 13 votes. Mian Iftikhar-ud-Din was the only member from West Pakistan who opposed the Bill.<sup>82</sup>

Mian Iftikhar-ud-Din criticized the political elite's misconception that a strong government would lead to unity. He stressed that compulsion would not be the best method to achieve unity. Sometimes strong government leads to disruption.<sup>83</sup> He also rectified the misconception that the British conquered region determines our nationhood. For him, the British conquered territory could not be a right parameter of nationhood. He referred to the history that the British constituted the princely states, therefore the boundaries of these states have no sanctity behind them as these were created for their own requirements. He suggested that princely states should be abolished and merged with their respective provinces which would reduce the influence of the central government who was nominating people from these states.<sup>84</sup>

Mian Iftikhar-ud-Din advocated devolution of power to the units. He stated that East Pakistan could not rule West Pakistan from 1200 miles. Likewise, West Pakistan could not rule over East Pakistan just because they were contributing more to armed personnel, civil service, industry, and government exchequer. He suggested devolution of power for regions to address different set of problems. He proposed that the confederation could meet the requirements of people at 1200 miles from each other, with different climatic conditions, with different soil, with different agricultural products, with different levels of development and a country between the two wings of Pakistan which could stop communications between them at any time.<sup>85</sup>

Mian Iftikhar-ud-Din criticized that the proposed system was not federal rather a unitary system referring to the

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82 *Dawn*, October 1, 1955.

83 *Constituent Assembly of Pakistan, Debates*, Vol. XV, no. 11 (October 22, 1953), 298.

84 *Constituent Assembly of Pakistan*, 298.

85 *Constituent Assembly of Pakistan*, 298.

presidential powers that “center can oust a ministry; center can replace a ministry; the center can impose section 92.”<sup>86</sup> Thus, the indirectly elected President was vested with wide powers. He also objected distribution of powers between the center and the provinces pointing to the three lists in which the center has 67 most important subjects under its control and 37 subjects under concurrent list thereby 104 subjects in total.<sup>87</sup>

### **Plural Polity Vs. Separate Electorate**

Mian Iftikhar-ud-Din also warned the PML government on confusing Urdu with Islam. It was generally believed that the language is a basic part of religion and Urdu is a basic proof of Islam. He asserted that language has nothing to do with religion. The people have right to speak in whatever language they want to express themselves. Urdu could be inter-provincial language in West Pakistan and Bengali could be the language for East Pakistan. Regional languages in each province should be developed simultaneously.<sup>88</sup>

Another contemporary issue was the rights and security of minorities in Pakistan on which Mian Iftikhar-ud-Din expressed his concerns. He explained that the partition took place with an agreement among the British, the Muslims represented by All India Muslim League and the Hindus represented by the Indian National Congress. All agreed that “on both sides of the border, in both countries, full freedom, full independence, full democracy, full justice, full equality will be given to all citizens of the state.”<sup>89</sup> He also referred that “the Lahore Resolution stipulates two things; ...independent autonomous states will be created — one in the North-West and one in the North-East of India” the other was “full justice is done to all minorities.”<sup>90</sup> He pleaded to

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86 *Constituent Assembly of Pakistan*, 300.

87 *Constituent Assembly of Pakistan*, 300.

88 *Constituent Assembly of Pakistan*, 299.

89 *Constituent Assembly of Pakistan, Debates*, Vol. XV, no. 17 (October 29, 1953), 583; Malik, ed., *Selected Speeches and Statements*, 416-17.

90 Malik, ed., *Selected Speeches and Statements*, 416-17.

honour this commitment and provide equal rights to the minorities.<sup>91</sup>

Another constitutional issue related with plural polity which incurred heated debate in contemporary politics was electorate issue. The Scheduled Castes according to the 1951 Census constituted 12 percent of the population of East Pakistan and the Caste Hindus only 10 percent. Of the 16 districts in East Pakistan, they were in majority in nine and in four districts they were almost equal to the Caste Hindus.<sup>92</sup> The PML government deliberated that the Scheduled Castes would not get full advantage of their numerical majority under the joint electorates. Thus, it granted separate electorates to the Scheduled Castes through the Government of India (Third Amendment) Bill. It was resented by the Hindu members of the Assembly who feared it would create division within the Hindu community. Sris Chandra Chattopadhyay said, "Do not divide us.... By dividing this, you cannot remove untouchability or remove the caste system."<sup>93</sup> B. C. Nanday observed that separate electorates would create division and undermine social solidarity. He warned, "If you separate them into separate political units they will think about their political interests separately and in course of time in all spheres of life a separatism will develop and this will make the community...split up."<sup>94</sup>

Mian Iftikhar-ud-Din supported the Hindu opposition members and stood for the joint electorates for the whole of Pakistan. The leaders from East Pakistan particularly the Awami League leadership also stood for the joint electorates. With the promulgation of the Constitution of 1956, the PML government left the issue to respective

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91 Malik, ed., *Selected Speeches and Statements*, 416.

92 *Census of Pakistan*, 1951, Table 6, Bulletin No. 2 (Karachi: 1951), 1.

93 *Constituent Assembly of Pakistan, Debates*, Vol. XI, no. 7 (April 18, 1952), 168.

94 *Constituent Assembly of Pakistan, Debates*, Vol. XI, no. 8 (April 19, 1952), 207.

provincial assemblies to decide. The West Pakistan Assembly decided in favour of the separate electorates whereas the East Pakistan Assembly voted for the joint electorates. The AL government compromised on the issue and moved the Electorate Bill proposing separate electorate for West Pakistan and the joint electorates for East Pakistan in the National Assembly on October 11, 1956. Mian Iftikhar-ud-Din opposed the principle of two different electoral systems in his speech in the National Assembly. He advocated the joint electorates for the whole country. Besides, he massively campaigned for it in West Pakistan through his speeches and through print media to educate public opinion on this issue. During this campaign, he strongly attacked the JIP and the PML for their stance on the electorate issue.<sup>95</sup> In his speech on the Constitution of Pakistan on February 29, 1956 in the Constituent Assembly, he warned that this would create two different ideologies leading to two Pakistans; creating disruption and rift in the country.<sup>96</sup>

Speaking on the floor of National Assembly on October 11, 1956, he indicated that "We, the biggest Muslim state, the fifth largest state of the world, have been discussing in this House how to save the Muslims of Pakistan from the 10 percent Hindus."<sup>97</sup> He mentioned that the Muslim minority campaigned for the separate electorates for 30 or 40 years to safeguard their interests in the British India. Finally, they realized that it was not adequate. Consequently, majority of the Muslims resolved that a separate composite state for the Muslim minority was the only solution to the problem.<sup>98</sup> Thus, it is obvious that demand of Pakistan was the result of failure of separate electorates. If separate electorates could not protect the Muslims in United India, then it would not be

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95 Malik, ed., *Selected Speeches and Statements*, 491-92.

96 Malik, ed., *Selected Speeches and Statements*, 482.

97 *National Assembly of Pakistan, Debates*, Vol. II no. 4 (October 11, 1956), 233.

98 *National Assembly of Pakistan*, 233.

useful to the Hindus in Pakistan.<sup>99</sup> He referred to the second part of the Lahore Resolution that assured statutory safeguards for the Muslim minority in the Hindu state and the Hindu minority in the Muslim state.<sup>100</sup>

Mian Iftikhar-ud-Din put forward another argument to convince his audience that "Quaid's vision was a different Pakistan constituting whole of the Punjab and whole of Bengal including Assam. If it had been materialized, then there would be a state with 60 percent Muslim population and 40 percent Hindu population constituting in the West and in the East constituting a little over 50 percent Muslim population and a little less than 50 percent Hindu population".<sup>101</sup> Besides, he referred to the contemporary power dynamics that under separate electorates Hindus being 10 percent of the population would be so effective that they could decide who can rule the province by either siding with the United Front (UF) or the AL. Then, if Quaid's plan succeeded, the Hindu minority with 40 percent weightage could have been so powerful to influence politics in Pakistan. He concluded that "Quaid had never visualized separate electorates."<sup>102</sup> He warned that the small minority might be able to divide and disrupt the majority under separate electorates. Such situation would not arise under joint electorates.<sup>103</sup>

Mian Iftikhar-ud-Din also emphasized that the electorate issue was not related with Islam. If Hindu and Muslim members could vote together in presidential election, so they could vote together in general elections also.<sup>104</sup> He stressed

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99 *National Assembly of Pakistan, Debates*, Vol. II no. 4 (October 11, 1956), 233.

100 *National Assembly of Pakistan, Debates*, Vol. II no. 4 (October 11, 1956), 233.

101 *National Assembly of Pakistan, Debates*, Vol. II no. 4 (October 11, 1956), 234.

102 *National Assembly of Pakistan, Debates*, Vol. II no. 4 (October 11, 1956), 234.

103 *National Assembly of Pakistan*, 234.

104 *National Assembly of Pakistan*, 234.



that under the joint electorates, the political parties would be obliged to take up economic and political issues for the welfare and progress of the people as a whole.<sup>105</sup> He congratulated the AL for sticking to its stance on the joint electorates for East Pakistan, yet he condemned its provincial approach to national matters as its leaders supported the One Unit for West Pakistan without ascertaining the people's opinion. He warned that the separate electorates for West Pakistan can reduce parity in comparison to East Pakistan.<sup>106</sup> He moved a resolution in the National Assembly of Pakistan on October 11, 1956, "That after clause 3 of the Bill the following be substituted, namely: 'Election to the National Assembly and the Provincial Assemblies shall be held on the principle of joint electorates'" but the House rejected this motion.<sup>107</sup> Addressing a public meeting, Mian Iftikhar-ud-Din alleged that the PML wanted to divert the attention of the people from real issues like poverty, unemployment, the rising cost of living and focused on electorate issue which was not related with Islam nor it could help in removing the socio-economic injustice.<sup>108</sup> He rejected the demands of the PML and the JIP for a referendum on this issue, and stressed that "If referendum is necessary, then there should be a referendum on the entire constitution to know the wishes of the people."<sup>109</sup> Subsequently, the Electorate (Amendment) Bill proposing the joint electorates for the whole country was passed from the Parliament on April 22, 1957.

### **The Constitution of 1956**

Mian Iftikhar-ud-Din was constantly advocating for fresh elections to constitute a Constituent Assembly to frame a constitution for Pakistan. When the governor-general

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105 *The Pakistan Times*, October 26, 1956.

106 *National Assembly of Pakistan*, 237-38.

107 *National Assembly of Pakistan*, 344-45; Malik, ed., *Selected Speeches and Statements*, 499.

108 *The Pakistan Times*, October 26, 1956.

109 *The Pakistan Times*, October 26, 1956.

dissolved the first Constituent Assembly, the second Constituent Assembly was elected by the existing provincial assemblies through proportional representation. Chaudhry Muhammad Ali the then Prime Minister tried to get approved the Constitution from the Assembly in short time. Thus, the assembly discussed the entire Constitution for 30 days. At times it passed 50 sections of the Constitution in just one sitting.<sup>110</sup>

Mian Iftikhar-ud-Din opposed the Constitution of 1956 due to the unrepresentative nature of the Assembly, which passed it. He pointed out that most of the members were indirectly elected and others were nominated. He criticized that delay in the framing of new constitution was not due to the opposition, rather the ruling party (PML) was responsible for it.<sup>111</sup> Besides, he pointed out that East Pakistan was not granted autonomy that was promised for parity at the Center. He was dissatisfied with the federation as the system was more like a unitary system when the center had more subjects than provinces.<sup>112</sup>

### Conclusion

Mian Iftikhar-ud-Din is recognized by some as a statesman and a visionary leader, yet some referred to him as a rhetorician. However, his contribution in the parliamentary debates on the framing of a constitution and legislative measures, are important as not only certain contemporary circumstances directed the course of constitutional and political development in Pakistan from its inception, but political leadership was equally responsible for setting the directions for the ensuing developments. The leadership of Pakistan Muslim League instead of adopting inclusive approach in nation-building pursued a policy of exclusion and preferred state-building over nation-building. This not only alienated the opposition parties rather created splinter

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110 Malik, ed., *Selected Speeches and Statements*, 477-78.

111 Malik, ed., *Selected Speeches and Statements*, 479.

112 Malik, ed., *Selected Speeches and Statements*, 479.

groups within the ranks of PML thus enlarging the grievances of the opposition parties leading to polarization in politics. Mian Iftikhar-ud-Din's proposals and certain amendments could have been accommodated and incorporated in the constitutional proposals as a goodwill gesture to the opposition, but the PML showed rigidity to the opposition's point of view. This mutual relationship of the government and the opposition clearly affected the democratic traditions in Pakistan.