

## **Bangladesh-Pakistan Relations: A Hostage to History**

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### **Abstract**

*After 24 years of turbulent relationship between East and West wings, Pakistan disintegrated and a bloody liberation movement resulted in emergence of a new country, Bangladesh on 16 December 1971. Although the diplomatic relations established following the mutual recognition extended to each other in 1974, (Ahmar, 2003) the bitterness of the past and the memories of 1971 civil war in East Pakistan continued to haunt the bilateral relations of two independent states Pakistan and Bangladesh, in post-1971 period. However there are instances of better relations, the trust deficit and bitterness revived time and again due to unresolved issues between the two nations. These tough periods are observed when Awami League (AL) comes in power. This paper is an effort to study the outstanding issues between Pakistan and Bangladesh. It also studies the hurdles in resolving these issues. It concludes that a sustainable relationship between two regional powers is essential to counter the Indian dominance in the region and it is only possible when they would come out of the burden of history.*

**Keywords:** Liberation Movement, Civil War, Apology, Stranded Pakistanis, Assets

### **1.1 Introduction**

Bangladesh got independence from Pakistan on 16 December 1971. Despite strong difference and hard feelings they extended recognition to each other and started diplomatic relations in 1974. However the bitterness of the past and the memories of 1971 civil war in East Pakistan are still overshadowing the bilateral relations of two independence states Pakistan and Bangladesh even after 43 years of separation from each other. It is a harsh reality that Pakistan and Bangladesh could not develop strong political and commercial relations due to the hangover of the past suspicions and acrimony.

There are strapping factors which pose a major hurdle in the formulation of substantial foreign policy leading to mutually beneficial relations between Pakistan and Bangladesh. The perception of national interests is obviously different for both nations. The Bangladesh's perception towards Pakistan is divided into three discernible groups. First, is the group of hawks and see improvement of bilateral relations with Pakistan always with suspicion. They claimed to be nationalists and are not ready to forget the atrocities committed by Pakistan army during war of liberation. They insist on apology by Pakistan before starting any cordial relations with Pakistan. Second group is consisted of the pro-Indian lobby represented by Awami League, headed by Hasina Wajid, the daughter of Shaikh Mujeeb-ur-Rehman, the father of Nation. Having close links with New Delhi, this group is strongly against any friendly relations with Pakistan. Third group is the majority of Bangladeshi people who desire for brotherly relations with Pakistan but for clearing the burden of history they want apology for the atrocities committed by Pakistan army in 1971. They support pro Pakistan foreign policy to deal with India's hegemonic attitude towards Bangladesh and its covert backing of Chittagong Hill Tracts insurgency.

That group has a soft corner for Pakistan due to historical and religious ties and believes that better relations with Pakistan could help Bangladesh to withstand the Indian animosity.

## 1.2 Background

Pakistan and Bangladesh had a long common history being the part of sub-continent. The joint struggle for independence against a colonial power finally concluded in emergence of the largest Muslim state, Pakistan, on the world map. It was the height of cooperation and sacrifices for a common cause by the people of Muslim majority province of Bengal and western part of India, later became West Pakistan. In 1947, when subcontinent got independence and India and Pakistan were created as independent states, the region of Bengal was divided on religious lines. The eastern half was given to Pakistan and become East Pakistan due to the presence of Muslim majority in the area while the predominantly Hindu western part became the Indian state of West Bengal. From 1947 onwards, Pakistan had to face security threat from India, which converted Pakistan into a security state, which resulted in an overdeveloped military. (Rizvi, 2000) The political instability and economic hardship coupled with the security concerns of armed forces of Pakistan pushed the country under military rule in 1958. Ayub Khan's martial law paved the way to second martial law of Yahya Khan in 1969 without completing the transition to democracy after 1<sup>st</sup> martial law.

East Pakistan having least representation in armed forces felt underrepresented in decision making process during this prolonged military rule. They also felt deprived of provincial autonomy under the constitution of 1962.<sup>1</sup> The deprivation was further augmented due to under representation under the principle of parity.<sup>2</sup>

Till December 16, 1971 the state of Pakistan was unique because its two wings East and West Pakistan were separated by 1000 miles of Indian Territory. Therefore the federation had inherent irritant. In addition to this, the linguistic, cultural and ethnic differences also played an important role in creating more differences between the two parts of the country. Bengalis strongly resisted against the imposition of Urdu as the sole official language of Pakistan (Rahman, 1996, pp. 79,99,100), (Kokab & Abid, 2013).<sup>3</sup> The attempt to preserve Bengali language became the basis for nationalist movement in Bengal (Pakistan Observer (Dhaka), 1966).<sup>4</sup>

Moreover the mismanagement of economy, over emphasis on security of West Pakistan and distrust towards each other alienated people and leadership of East Pakistan leading to separatist trends among them. The six point manifesto of Mujib-ur-Rehman of AL (Humayun, 1995, p. 280)<sup>5</sup> and inappropriate handling of the issue by the Ayub government proved detrimental to the integration of Pakistan. His successor Yahya Khan tried to appease the demands of AL but it was too late.

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<sup>1</sup> The Constitution of 1962 was not the product of any legislative exercise by a representative Assembly. It was the brain child of Ayub Khan, the first military dictator of Pakistan, who never wanted to transfer power to the people of Pakistan. His real motive was just to give a civilian face to his military rule. This constitution established not only a strong center but also total control of President of Pakistan over provincial governments taking away all provincial autonomy. It was all exactly opposite to what East Pakistan was demanding since 1948.

<sup>2</sup> One Unit was created by an executive order. All the provinces of West Pakistan were merged into one province i.e., West Pakistan giving both East and West Pakistan on the principle of parity in representation in National Assembly, despite the fact that the population of East Pakistan alone was larger than that of all the four provinces of Pakistan. East Pakistan accepted it, surrendering its democratic right of representation on the basis of population in exchange to get Bengali as official language along with Urdu.

<sup>3</sup> The most burning issue that vexed the Bengali mind and created one of the first tests for Pakistani leadership in the context of East Bengal was the question of national language of Pakistan. The discontent that it generated and the protest that followed over it were the first signs of Bengali Nationalism. It brought various discontented groups together and contributed to bridging the gap between the nationalist intellectuals and the masses. See also (Das, 1981, p. 91)

<sup>4</sup> In fact International Mother Language Day is observed in the memory of language riots in Dhaka on 21<sup>st</sup> February 1952 (Language and Multilingualism). The people died in government action against the rioters were declared as Martyrs and 21<sup>st</sup> February was continuously observed as Martyrs' Day every year to enhance the nationalist feelings. The enthusiasm of this day was unprecedented in 1966, coincided with Mujib-ur-Rehman's six points.

<sup>5</sup> To protect Bengali interests, Sheikh Mujibur Rahman in 1949 formed a party; the Awami League (AL). Mujib became president of the Awami League and emerged as leader of the Bengali movement for more provincial autonomy. In 1966, he was arrested for his political activities. He emerged as a National hero of Bengali nation after his unconditional release.

The 1970-71 elections proved to be the last blow to already fragile integrity of nation. Awami League won all the seats of East Pakistan (Report on General Elections, Pakistan 1970-71, 1972).<sup>6</sup> To protect their share in governing process West Pakistan demanded the constitutional division of power between the central government and the provinces, and also talked about the formation of a national government led by the Awami League. However the provision of LFO that the new constitution could be verified with a simple majority, hardened Mujib's attitude and he refused to compromise on any power sharing formula with Z. A. Bhutto (Rizvi, 2000). Since both parties were not very hopeful that a constitution acceptable to both Wings could be framed by the future Assembly, (Roy Fox, 1970)<sup>7</sup> and talks for any acceptable agreement failed, President Yahya Khan postponed the long awaited national assembly session for indefinite period. Bengalis took it as a refusal to transfer power to AL, the majority party in National Assembly. They resorted to massive civil disobedience and violent demonstrations in East Pakistan. Government arrested Mujib and banned his party, and many of his supporters escaped to India and planned a provisional government there. (Mahmood, 1993) Later a High Commission by "Bangladesh Government in exile" was established in London with the support of UK government in September 1971.

On March 26, 1971, Bengali nationalists declared an independent People's Republic of Bangladesh after the bloody crackdown by Pakistan army (Tariq, 2003). As the hostility increased and the fight between the Pakistan Army and the Bengali militants from Mukti Bahini (freedom fighters) and Niomito Bahini<sup>8</sup> (the 'regular forces') (Rehman, 2013) become more violent Almost 10 million Bengalis moved towards India especially in the states of Assam and West Bengal and took refuge there. India warmly welcomed them and exploited that opportunity to start an international propaganda campaign taking up the brutality of Pakistan government against its own civilian population. It created more tensions and troubles in Pakistan's relations with India. Due to the so-called refugees' pressure India finally decided to intervene in the matter in favour of the Bengali separatists in November 1971. Pakistan Army had to fight on two fronts, against a hostile population from home and five times bigger Indian army from border front fully covered by 11 squadrons of Air force and a strong navy. Eventually on December 16, 1971, Pakistani army surrendered, and a new nation Bangladesh came into being (U.S. Department of State, 2000).

The secession of East Pakistan and creation of Bangladesh, on December 16, 1971, became the basis for the future relationship between Pakistan and the new state of Bangladesh. Certainly it was not a pleasant occasion for both the sates. Bitterness of the civil war, irritants of separation and human sufferings were not easy to forget. Nonetheless there was no conflict arose after 1971 but the relations have passed through various ups and downs due to the hangover of events of civil war 1971.

Pakistan refused to recognize Bangladesh and was holding nearly half a million Bengalis in Pakistan as political hostage against its Prisoners of WAR (POWs).<sup>9</sup> Bangladesh refused to talk Pakistan without prior recognition extended to the former. Mediation was offered by United Kingdom and Indonesia, but they were failed to break the deadlock between the two countries (Azfar, 1992, p. 141). The relations between two states were normalized to some extent as Pakistan was ready to recognize Bangladesh in 1974. Many other agreements including Prisoners of War (POWs) were also signed between both countries under Simla Accord (Simla Agreement, 1972).

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<sup>6</sup>LFO of Yahya Khan abolished the principle of parity between East and West Pakistan for representation in National Assembly, on the basis of population. It provided permanent dominance to East Pakistan since it enjoyed 53% of the total population. In East Pakistan, the Awami League secured 160 out of 162 general seats along with seven women seats. Its total strength in the House of 313 was 167. AL got the required majority to form the government as a sole party. In West Pakistan, the PPP secured 81 out of total 138 general seats.

<sup>7</sup>Talking to Roy Fox on 22 April 1970, Muazzam Chaudhry said that "the interests of the two Wings simply did not coincide. East Pakistan must have trade with India. It must also have a fair share of defence spending and a much larger share of foreign aid. None of these points would be acceptable to the representatives of West Pakistan and this would make the forming of a constitution very difficult."

<sup>8</sup>This term is used for the 'regular forces' comprising a large number of Bengali members of the East Bengal Regiments (EBR), East Pakistan Rifles (EPR), later became BDR, BGB after creation of Bangladesh. They were the defection part of Pakistan Army fought for freedom of Bengal and targeted Pakistan Army and civilians who were either from West Pakistan or Urdu speaking called Biharis.

<sup>9</sup>Following surrender on 16 December 1971, 93,000 Pakistani soldiers were arrested by India as POWs and Bangladesh also announce to conduct a trial of Pakistani top officials for war crimes.

Although Pakistan granted recognition to Bangladesh at the occasion of OIC Conference in 1974 held in Lahore and official missions of both the countries assumed their responsibilities in 1976, but the tension remained there in Pak-Bangladesh bilateral relations. The ice melted after the sad demise of Shaikh Mujeeb-ur-Rehman in a bloody revolution. But the real goodwill was shown by the government of Gen. Zia-ur-Rehman, who took over the government in 1977. He not only consolidated his power base but also made foreign policy dynamic. He laid the foundation of Bangladesh Nationalist Party, in 1978. President Zia-ur-Rehman was its first chairman. He improved economic conditions during first two years of his regime. Initially, he took steps for strengthening relations with other Muslim countries, and to foster good relations with countries of the west. Secondly, he planned to start fraternal and cordial relations with neighbouring countries including India and Pakistan (Azfar, 1992, p. 141).

## **2. Outstanding Issues**

All the outstanding issues between Pakistan and Bangladesh are the outcome of the dreadful events of disintegration in 1971. But the hostility and distrust is the product of misunderstandings developed during the common history of joint Pakistan. Two major issues are political i.e., the issue of repatriation of stranded Pakistanis, and the issue of apology of accesses done by Pakistan government and especially the army during military action in 1971. The third one is the division of assets between the two successor states, Pakistan and Bangladesh. No new conflict aroused since 1971. For most of the Pakistanis, a bitter past should be forgotten and astringent memories should not be enthused up. This theory sounds good in outlook but it is not workable because Bangladesh, the other party, insists 'on cleansing the bitterness of the past (Noor, 2005).

### **2.1 Stranded Pakistani Issue**

A most sensitive humanitarian issue which emerged as the outcome of disintegration of Pakistan in 1971 was ownership of Pakistanis (non-Bangalis) stranded in Bangladesh. Like many other international humanitarian issues, it remained pending since 1971 and two generations of these stranded Pakistanis have been waiting to come to Pakistan. Although the issue was not so easy to resolve at the initial stage but unnecessary delay has made it more complicated.

After the fall of Dhaka in 1971, the International Committee of the Red Cross (ICRC) registered nearly 540,000 persons, called Biharis, who were desirous to be repatriated to Pakistan from Bangladesh. They were non-Bengalis, migrated from Indian province of Bihar at the time of partition of India in 1947, to escape the anti-Muslim riots and were settled in East Pakistan. They sided with the Pakistan army in civil war of 1971. They wanted to save their country from disintegration (Azfar, 1992). When Pakistan army had to surrender and Dhaka declared independence with the help of Indian army, (Indo-Pak Treaty of Simla, , 1972) these Biharis became unbearable for Banglis who considered them as traitors because of their loyalties towards Pakistan.

Bharis claimed themselves as Pakistanis and decided to migrate to Pakistan. However Pakistan clarified at the start of negotiations that it could not accept all stranded persons due to its limitations. For repatriation of these Pakistanis who had opted for Pakistan, in exchange for the Bengalis in Pakistan and Pakistani prisoners of war (POWs) in India, a tripartite agreement was signed in Delhi, in 1973. Under this agreement Bangladesh showed willingness to accept all Bengalis, about 1,280,000 in number, who opted for Bangladesh while Pakistan also agreed to repatriate a substantial number of non- Bengalis' from Bangladesh (Indo-Pak Treaty of Simla, 1972).<sup>10</sup>

The Article 12 of Pakistan, Bangladesh and India agreement of 1947 explained that Pakistan rather it permitted movement to the people under three categories: (1) non-Bengalis, the people domiciled in former west wing of Pakistan, (2) employee of central Government and their families regardless of their original domicile people and (3) members of the divided families. Pakistan continued the procedure and issued clearance to 2, 50,000 individuals, who comprise hardship cases. Pakistan encouraged that it would welcome intake of the people who fall under these three categories and avoided to fix the numbers (Documents, 1974).

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<sup>10</sup>“By September 1974, some 9,000 people had been transported by sea between Bangladesh and Pakistan, and some 231,000 people had been airlifted across the sub-continent. Those airlifted included some 116,000 Bengalis who went from Pakistan to Bangladesh, some 104,000 non-Bengalis who went from Bangladesh to Pakistan, and some 11,000 Pakistanis who were airlifted from Nepal to Pakistan, having previously fled there, overland from Bangladesh. It was, at the time, the largest emergency airlift of civilians ever organized.”

By 1982, in Gen. Zia period, almost 127,000 marooned people had been repatriated to Pakistan. After the death of Gen. Zia in 1988, Pakistan Peoples' Party won the general election and Benazir Bhutto formed coalition government with Muthahida Qaumi Movement (MQM),<sup>11</sup> in Sindh for the first time. Both the parties signed Karachi Accord which was named as "Charter of Peace, Love and Rights" by both sides. In this accord the repatriation of Biharis was a major point on agenda (Dawn Overseas Weekly, 1988).<sup>12</sup> Government of PPP, pledged to implement that accord but its inability to do that quavered the coalition (Arif, 1995, pp. 213-214).<sup>13</sup>

Pakistan and Rabita al-Alam al-Islami (Union established by the Muslim World) signed an agreement. It was meant to repatriate the remaining Pakistanis, and for that purpose 'Rabita Trust' was formed (Haq, 1993, pp. 149-157). With the collaboration of the Stranded Pakistanis' General Repatriation Committee (SPGRC), a necessary survey was conducted and concluded in 1992, and the number stood at 238,000.

Prime Minister Nawaz Sharif was committed to further remaining repatriation of stranded Pakistanis, but his plane could not bring desired result because his regime was dismissed by President Ghulam Ishaq Khan (Ian Talbot, 2003). Benazir Bhutto formed the new government in 1993. However, the repatriation process remained fester during her era. Nawaz Sharif again became Prime Minister in 1997 and revitalised his previous policy towards stranded Pakistanis. He requested the Pakistani nation for donations to the Rabita, so that the repatriation process could be facilitated.

Despite official stand a contradictory statement was issued by the Foreign Secretary Shamshad Ahmed on 18 January 1998. He contended that the 'Baharis' could lead better life in Bangladesh (The Frontier Post, 1998). The statement was enlightened with the reference of Holy Qur'an that it is the responsibility of all of us to take care of the needs of these impoverished brethren who are deprived to earn their daily meal (Dawn, 1998).

It is very unfortunate that domestic acceptance for these Biharis in Pakistan is minimal. Local Sindhis keeping the already large number of Urdu speaking population in Urban Sindh were opposed to repatriation and settlement of Biharis in their province. They asserted that Biharis settlement in their province would shrink economic opportunities as well as would prove to be a threat to their political interests. Viewing Sindhis opposition Nawaz Sharif initiated a scheme to settle the Biharis in Punjab. His government planned to construct fifty thousand housing units in the selected eight district of Punjab, with estimating cost of ten billion rupees. This plan remained unsuccessful due to bureaucratic inertia and lack of funds. Furthermore, Punjabis protested against that settlement plan (The Biharis are coming; An anti-repatriation view and Biharis: the Lost Children; A pro-repatriation assessment, 1992; 1992; 1992).

In 2002, President Musharraf<sup>14</sup> assured a delegation of the Stranded Pakistanis General Repatriation Committee (SPGRC) in Dhaka that his government would take every possible step to handle the issue. In this regard, a trilateral conference was decided between Pakistan, Bangladesh and SPGRC to sort out the ways to conclude an acceptable solution, but without any development situation remained same (The Frontier Post; The Nation, 2002). In National Assembly in reply to a question on the issue of stranded Pakistanis in Bangladesh, Khurshid Kasuri, the Minister for Foreign Affairs replied that Pakistan was committed to its obligation to meet the Delhi Agreement. In the process of its implementation between 1947 to 1982 a total number of 169144 Biharis were repatriated in three stages, while the remaining people could be considered as citizens of Bangladesh. This change in position of Pakistan's government regarding the future of stranded people could be termed as "vague and lacking concrete grounds (The Frontier Post, 2004). Perhaps, the Delhi Agreement of 1973 was the source of this argument which stipulates Pakistan's concurrence to 'initially repatriate a substantial number of non-Bengalis (Repatriation of stranded Pakistanis, 2012).

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<sup>11</sup>MQM is a party of Urdu speaking population migrated from India to Sindh Province of Pakistan at the time of partition of India in 1947 and afterwards. The party stood for the rights of migrant population called *Mahajar* (in Urdu) against Sindh government's efforts to impose quota in jobs and education institutions for Sindhi speaking population during the first regime of Pakistan Peoples' Party in 1970s.

<sup>12</sup>10 out of its 59 points were related to education. It also addressed the longstanding issues of domicile and job quotas, along with repatriation of Baharis.

<sup>13</sup>Three MQM ministers resigned from Sindh provincial government. Altaf Hussain declared that this violence was targeted due to the fear that MQM might not unite the oppressed classes against exploiters in Pakistan.

<sup>14</sup>He was the fourth military dictator who imposed martial law in 1999, dismissing elected government of Prime Minister Nawaz Sharif. He was an Urdu speaking migrant from India.

Bangladesh government in addition to the stranded people emphasised Pakistani government time and again reminding their demand for repatriation. It becomes aggressive especially when Pakistan issued denial statements regarding repatriation. In May 2003, Bangladesh High Court declared ten stranded Pakistanis as the citizens of Bangladesh. This was taken as strong evidence by those who opposed the repatriation. Although the younger generation of stranded Pakistanis might have the chances to adjust themselves but still there were a number of people who thought themselves Pakistanis and raised their voice for repatriation (Siddiqi, 2013).

During Musharraf era, Prime Minister Mir Zafer-rullah Khan Jamali seemed committed to resolve this issue. He assured his full cooperation to the Pakistan Repatriation Council (PRC), and further he took a bold step as he announced the Biharis rehabilitation in Balochistan. But it was not practically feasible because Baloch were already struggling to evacuate settlers from their province, even those who were living there for generations. With the change of government in Pakistan issue was dumped into cold storage. Nonetheless the Delhi Agreement and 1992 joint statement between Pakistan and Bangladesh, legally bound Pakistan to receive back its stranded citizens. But in Pakistan some officials were averse to repatriation and contended the legal compulsion. Adding insult to pain, the Lahore High Court issued a verdict in January 2004 that termed the Biharis as the citizens of Bangladesh not of Pakistan. High Court in its ruling declared “that love, affection, and relation are not grounds for granting citizenship to Biharis who wish to emigrate from Bangladesh into Pakistan. This specifically refers to Biharis in Bangladesh born after 1971, the year Bangladesh was declared a nation ( Love, affection not a ground to grant citizenship to Beharis, 2004).

Biharis are ill-fated people who have been living a turbulent life in sixty-six camps in Bangladesh. They were treated as sub-humans, suffering from politically incoherent policies of both sides’ governments to decide the fate of these stateless people. Bangladesh and Pakistan both the states seemed reluctant to approach the viable policy, the former is afraid of economic burden and the later is inconsistent due to certain obstacles in their settlement. But Pakistan’s failure is that despite its legal commitments and statements issued by its leadership, time and again, it could not provide the land to these deprived people (Noor, 2005).

Pakistan’s justification that it was already burdened of more than 2 Million Afghan refugees could not be and insincerity on its part as Afghan refugees entered during 1980s (Mehdi, 2014) while Pakistan was legally bound to receive stranded Pakistanis from Bangladesh under the agreement of 1974. Moreover people having loyalty with Pakistan and identity as Pakistanis were the responsibility of the government of Pakistan much more than refugees of a neighbouring state. Whatever the reason, but it was a fact and the need of hour to address the sufferings of these impoverished people. With the passage of time the governments of both sides lightly dealt the issue which went ultimately in cold storage.

In Pakistan only Pakistan Repatriation Council (PRC) has been breathing the issue to remind all the governments in Pakistan to fulfil their moral and legal obligation. The PRC was established by a group of students from East Pakistan for supporting the issue of repatriation. During the last few years, on the account of economic hardships, the PRC considering and promoting a proposal for stranded Pakistanis on a self-financing basis. This proposal was also appreciated and supported by former Secretary- General Rabita al-Alam al-Islami Abdullah Omar and noted French Islamic scholar Francis Lamand (Ghosh, 2014, p. 47).

Following are the suggestions to resolve the issue:

- The persons who want repatriation to Pakistan, they must be repatriated to Pakistan.
- Those should be given Bangladeshi citizenship who are striving for that.

On humanitarian grounds, the latter choice must be weighted more than former. Until and unless the governments of Pakistan and Bangladesh might take this problem as serious one and as well as devise some concrete plan, this issue would remain unresolved, and these stranded Pakistanis would continue to feel homeless. Along with governments, different non-governmental organizations and forms like OIC, IDB, SPGRC and Stranded Pakistanis Rehabilitation Trust with membership of Rabita can be much useful to help the plan. This issue must be a concern of United Nations, International refugee organizations and civil societies of Pakistan and Bangladesh. These organizations must come forward and play their active role by every possible means.

## 2.2 Apology Issue

The 1971 tragedy was a very unfortunate turn of history that led to the disintegration of Pakistan. It has two different versions, Bengali and Pakistani, which are pool apart from each other.

Bengali sources claim an unprecedented massacre and dis-honouring of Bengali women by Pakistan army (Mohsin, (2005), p. 223) while Pakistani sources deny these allegations. The Bhutto government established a commission to fix the responsibility and examine the factors that led to the surrender of the Pakistan army and the East Pakistan debacle. The Hamood-ur-Rehman Commission<sup>15</sup> Report (HRCR) was not published on the recommendation of the army since it recommended the trial of some Generals (Arif, 1995, pp. 213-214).<sup>16</sup>

In the year 2000, some parts from the HRCR were published in Indian magazine. This report was kept under the iron curtains for almost three decades. As report was made public, it became open for debate to expose the brutality of Pakistan military against its citizens. The demand for bringing the culprits before the court of law surfaced from all the factions not only in Pakistan but also in Bangladesh. This issue got momentum but as the report took 30 years to declassify most of the person involved had lived their lives.

The other reaction of this report was the demand for formal apology by the government of Pakistan; Bangladesh government was not the only party to endorse that demand rather it was accompanied by various other organizations of other countries too. Pakistan on the other side had always denied such allegations and considers it to be an unrealistic one. Even after the four decades since Bangladesh's independence, the ill feelings remain as fresh as it was back in 1971; the reason behind this hatred is that the effected who were the victims of the brutality at the hands of their own Army had passed it to its young generations to keep this feeling alive.

The major shift from Pakistan side came during President Gen. Pervaiz Musharraf visit of Bangladesh in the year 2002. He visited the National Martyrs Memorial at Savar to pay tribute to the martyrs of 1971 massacre. His words in the official visitors' book were, "...Your brothers and sisters in Pakistan share the pain of events of 1971. The excesses committed during the unfortunate period are regrettable. Let us bury the past in a spirit of magnanimity. Let not the thought of future be dimmed. Let us move forward together; courage to compromise is greater than the courage to confront...."(Habib, 2002).

His regretful remarks which he also repeated in an official dinner organized by Bangladeshi government got mixed response in Bangladeshi and Pakistani media. Initially a large section of the both the print and electronic media conceive it to be a positive gesture showed by any Pakistani head of the state who was also the Army Chief. His Bangladeshi counterpart also replied positively by saying these words, "no doubt help mitigate old wounds" (Habib, 2002).

But later it raised various eyebrows back home because of the reason that soon after Musharraf had left Bangladesh the government of Bangladesh issued a statement and asking Pakistani government to offer an official apology rather than voicing regret. Musharraf regret didn't receive that severe criticism from home like what his predecessor Nawaz Sharif has to face when he declared 1971 debacle as a result of political injustice, during a tri-national summit of 1998 (The Frontier Post (Peshawar), 1998). His statement was not welcomed by all the authorities in the country. If the statements of both the leaders Nawaz Sharif and Musharraf are scrutinize, the statement of the former is not that harsh as it was responded by the authorities back home. The reason why Musharraf was given soft response was firstly, he had the backing of military establishment; secondly, he was the head of the Army), the institution alleged to be responsible for the excesses. Surprisingly, more than fifty civil society organizations also released an apology statement:

"We feel sad and burdened by what we know was a violation of the people's human rights.... The apology should have come a long time ago, and citizens groups did make attempts to do so.... We deeply feel that a message from us is necessary to acknowledge the historic wrongs, to express sincere apology and build a bond based on honest sentiments" (Habib, 2002).

Adding to the list regret came via the foreign minister of Pakistan Kursheed Ali Kasuri during his visit of Bangladesh in 2003 (Dawn (Karachi), 2003).

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<sup>15</sup>Hamud-ur-Rehman, Chief Justice of Supreme Court was the head of the Commission; other members were Justice Anwar-ul-Haq (Chief Justice of Lahore High Court), Justice Tufail Ali Abdur Rehman (Chief Justice of High Court of Sindh and Balochistan).

<sup>16</sup>K. M. Arif wrote that despite the claim that Bhutto had destroyed all the copies of the report, he kept one copy of it which was recovered when the security forces raided all the residences of Bhutto in Karachi, Larkana and Naudero, two days before the latter's execution.

A process that started back in 1974, when an agreement was signed between Pakistan and Bangladesh on humanitarian issues, Pakistani side expressed its regret over this sad incident. In Article thirteen of that agreement the then State Minister of Defence recorded his regret over the crimes committed in 1971 occurrence (Documents, 1974).

On the issue of formal apology there are two points of view in Pakistan. The first point of view says that official apology from Pakistan government is not a big deal, especially when Pakistani authorities had already been offering the same on different time and occasions from 1974 to 2002. President Musharraf's offering it officially is not such a big deal. However this group feels that the issue cannot be engraved until both parties show accommodation. If Pakistan is ready to offer official apology Bangladesh should also show some leniency to end up this issue once and for all. It means that after the formal apology extended by Pakistan government no other demand should be entailed in this regard.

Some people of this school of thought think that to offer an official apology, it would not only satisfy the people and government of Bangladesh but it would also help Pakistan in a sense that this decision would give strong message to the military that civilian government can put them before law if they exceed their limitations. Zubida Mustafa portrays this argument in these words: "It amounts to recognizing that state agencies are liable to be held answerable when they commit human rights violations. In 1971 it was Bangladesh, now it is Pakistan where police continue to commit atrocities against the people...." (Mustafa, 2002)

Devanad Ramiah put reconciliation efforts in these words, "Although the task of delving into the past and addressing contested histories and events can be a painful and challenging process, the burden of history has to be dealt with...recognized as an important stage in any peace process, such a focus should include an acknowledgement, and perhaps even an apology, by individuals/communities of the harm done in the past. Such acknowledgement of, and regret for, atrocities committed in the past, plays an extremely crucial role in facilitating trauma healing and reconciliation..." (Gopinath & Sewak, 2003, p. 112).

The second point of view is averse to apology issue. The adherents of this group out rightly reject all this apology issue. They are of the opinion that there is no such need because it was a clear revolt against the state writ, so, Pakistani authorities were left with no other option to implement its authority by using the option of force. Their second point is that to open that had been happened in the past would be nothing else than refreshing the already healed wounds of both the parties. So, according to their opinion, this issue of apology should be good if it is unprofessed.

It is also an apprehension of this group that forcing one party in a bilateral issue does not work. They are of the opinion that the figures of three millions casualties and two lacs of women dishonouring by the Pakistan Army sounds completely unrealistic. The HRCR also denied these figures of damages done to the Bengali population. It stated that "so much damage could not have been caused by the entire strength of the Pakistan Army then stationed in East Pakistan even if it had nothing else to do. In fact, however, the army was constantly engaged in fighting the Mukti Bahini, the Indian infiltrators, and later the Indian army. It has [sic] also the task of running the civil administration, maintaining communications and feeding 70 million people of East Pakistan. It is, therefore, clear that the figures mentioned by the Dacca authorities are altogether fantastic and fanciful." (Hamood ur Rehman Commission Report ).

The independent sources also support this point that such a large number of rapes and committing genocide at such a massive scale is not possible. Abdul Mu'min Chowdhury in his book Behind the Myth of 3 Million reject all these allegations declaring those as "entirely cooked up and the actual death toll was much lower than the falsely fabricated three million figure." Citing number of authentic sources he "the number of East Pakistanis who supported independence and were subsequently killed during the war was to glorify the movement against West Pakistan, but evidence points otherwise. The total strength of Pak army was 40,000 in East Pakistan out of which 237 officers, 136 JCOs and 3,559 other ranks were killed and wounded in the counter insurgency operations between March to November, 1971" (Chowdhury, 1996). Then how could they rape 2 lac women and kill 3 billion people.

Col Akbar Hussain,<sup>17</sup> a decorated 'Mukti Juddha' gave the statement in Bangladesh Parliament during a debate that 'the Awami League had created the myth of 'three million killed' on 15 June 1993 (Rehman, 2013)

Sarmila Bose in her book 'Dead Reckoning' says that it was uncivil war in many Bangalis who were fighting for dignity and freedom of their nation carried out appalling atrocities. On the other hand the Pakistani army offers proved human, and in their fight against rebels did their best to follow the conventions of war. Challenging the exaggerated assumptions from Bangladesh she argue that it is not humanly possible for Pakistan Army 'both for tactical and humanitarian reasons,' to carry out such a massive level of genocide. It is assumed that "the Mukti Bahini and Niomito Bahini, police, other paramilitary forces, students and other civilians that started resistance against the Pakistan Army) did not commit atrocities." Bose specifies in her book, all these groups 'committed appalling atrocities' (Bose, 2011: 71-96).

In this regard, it is the duty of Bangladeshi governmental authorities as well as of their academicians to play their role in correcting the records as these false figures are major source of hostility between the two nations. Secondly, Pakistan armed forces are not solely responsible for that debacle but some Bengali militants groups i.e. Mukti Bahini militants and Niomito Bahini were also involved. Therefore they should also be made accountable or at least condemned for what they had done.

It is a fact that problem is not on Pakistan's side only. The negative role played by some section of the Bengali society is the major hurdle in the nurturing of peaceful, and brotherly bilateral relation between both the countries. This include the secular forces of Bangladesh who completely quash the option of unconditional normalization of relations with Pakistan as they are of the opinion that being a Muslim brother country it is not enough to forget what they had done to our people in the past. As they claim that the brutality of Pakistan armed forces are as fresh in our mind as it was in 1971. The hostile behaviour intensifies during AL rule. Recently the court decision to hang the Jamat-e-Islami leader for war crime against Bengali population and support to Pakistani soldiers against Bengali Liberation Movement is the example of such behaviour (Execution in Bangladesh sparks violent protests, 2013).

Similarly, the stance taken by Bangladesh on different time and occasion had added to complexity of this issue. Before Musharraf's remarks, government of Bangladesh were asking that Pakistan should show regret over 1971. Therefore, after apology the President of Pakistan should be appreciated and the issue should have been made close. But rather than appreciating it, Bangladesh came up with the demand of offering of formal apology (Sumit, 2010, p. 93) Similarly, in the case of Nawaz Sharif when he promised to put the culprits before the law soon after he had left Bangladesh, the Foreign Minister of Bangladesh issued a statement, "We appreciate Pakistan government's position as stated in reported remarks by Nawaz Sharif that he would punish those responsible for the 1971 tragedy. But we would like them to go a little further to express regret for the genocide against the people of Bangladesh" (Noor, 2005).

Pakistan side got this message through such statements that after receiving formal apology, Bangladeshi government would demand handing over war criminals to Bangladesh for trial and so on.

Therefore, keeping these facts in front Pakistan should come forward and offer an official apology to fulfill the demand of the offended party (The Muslim (Islamabad), 1998). Having said that all this issue of apology is unresolved since forty years because it is not that simple or in other words both the parties are making it confusing because of mutual distrust prevailing on both sides.

### 2.3 Asset Sharing

Soon after its independence in 1971 the Bangladeshi authorities made a demand of their due share in the assets according to the contribution made by the East Pakistan in the development of the United Pakistan. The estimated share which they had claimed was about \$4 billion. This included the movable resources and the amount of exchange present in West Pakistan. Under the formula set for the distribution of assets had to be divided between Pakistan and Bangladesh under the following rules:

- Population basis, with 50 per cent of the total assets for Bangladesh.
- Equal distribution of wealth basis, with Bangladesh getting 50 per cent of the total assets.

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<sup>17</sup>Col Akbar Hussain, was a well known 'Mukti Juddha' and he served as cabinet member under both General Ziaur Rehman and Prime Minister Mrs Khaleda Zia.

- Foreign currency basis, with 50 per cent of the foreign exchange for Bangladesh.
- Proportionate basis with 44 per cent of the total wealth for Bangladesh (Ahmar, 2003, p. 32).

But the question arises about the public debt that was spent in the development of East Pakistan who would be liable to pay those debts? Bangladesh offers a proposal to accept the half share of the total debt that is to be paid by Pakistan till 1971 in an agreement in 1975. But this matter was not that much simple as it appeared and was not settled till the then Soviet Union intervened to resolve it. It was agreed upon that Pakistan was made not bound to pay the amount of external debt that was spent on the development of Bangladesh (Tandon & Kapoor, 1998, p. 176).

Prior to this settlement a committee was setup in 1972 with a task to investigate the legality of the demands made by the Bangladesh, this committee completely rejected those demands rather they made a point that if the policy of nationalization is applied over the issue it would be Bangladesh that have to pay to Pakistan (The Nation, 1992). It was under the military regime of Zia-ul-Haq when the issue was surfaced again. He assured the Bangladeshi authorities that he would look up the matter and its legality. Another committee was formed but nothing concrete came out over this matter. Similarly the matter was kept under the closet during the tenure of Benazir. It was in 1992 under Prime Minister Nawaz Sharif when some seriousness was shown to drive this controversy to conclusion and they used the approach of bilateral dialogue between both parties (Dawn, 1992).

This issue has become complicated as the Bangladeshi authorities are stuck to their stance whereas Pakistan has being changing its positions on different occasions.. In the Vienna Convention of 1983, the rules for asset sharing in case any state earns independence or if the territory is divided between the two parties are:

- Immovable state property of the predecessor state is to pass to the successor state in the territory of which it is situated.
- Movable property of the predecessor state connected with the activity of the predecessor state in respect of the territory passing is to pass to the successor state (Starke, 1989, pp. 336,337).

For Pakistan it would have been good to take the position that it would resolve the issue under the rules and regulations laid down by international law to deal with such circumstances, in the Vienna Convention of 1983. Pakistan is on strong footing under International law. However the problem is the inconsistency in our leadership's stance over the issues. Since Zulfikar Ali Bhutto to present there is a major shift in Pakistan stance regarding that issue. Pakistani leaders accepted the responsibility that they would look into the matter. This attitude encourages Bangladesh to insist on that Pakistan really owe it to them and their demand is a legal one. Had Pakistan once for all straight forwardly give a clear message to the Bangladeshi authorities that its illegal demand could not be entertain on the grounds that it is not acceptable under the international law is not supporting their stance, the matter would had been closed much earlier in the past. But it is just because of undemocratic governments and their short sightedness that they could not make themselves free out of it.

### **3. Conclusion**

History is full of violence against the mankind irrespective of the fact that either it is committed on hefty or diminutive levels. It remains fresh in the minds of the victims. They live with it for the whole of their lives and also pass their sufferings to their young generations. Similar is the case with the citizens of Bangladesh. They would never forget what had done to them and they will share what history had done to them.

Along with that there are also examples in the history that oppressors had extend apology to the oppressed and they had accepted it. Some of the examples include the apology of the Pope over the misuse of Christ name in the 11<sup>th</sup> century, the Queen over Jalian Wala Bagh episode, Japan apology of the crimes they had committed against the Korea and China, Germany over Jews genocide, the last white president of South Africa and more recently the USA over its action in Falujah.

The process of reconciliation between Pakistan and Bangladesh which was started in 1974 remains unfinished because of the unsettled disputes between the two countries. With respect to all these issues, Bangladesh has been considered as the offended party, whereas, Pakistan is seen as the perpetrator and liable to settle unresolved issues in order to meet the demands not only of Bangladesh but also of the Pakistanis stranded in that country.

The unnecessary and exceptional delay in the process of settlement has complicated these matters and the contradiction and shifts in policies of the different governments of Pakistan have added confusion to the legal position of the country.

Bangladesh has also avoided taking up the issues directly and in an explicit manner, while the grudge of Bangladeshis towards Pakistanis remains intact. The two governments need to tackle their differences seriously with a view to resolving them on the basis of shared their national interests, keeping the histories intact. However, reverting to rhetoric or unnecessary reference to history which, is equally painful for both parties, would not be helpful for anyone.

Since Pakistan and Bangladesh share no borders, therefore, there are no issues of sharing of river waters and un-demarcated boundaries etc. that usually create problems between the nations in post-colonial settings. In this way this relationship is less challenging. Both countries' stance on terrorism is the same and they support the global war on against terrorism. They have provided multinational forces with the refuelling facilities and also allowed to use their seaports, airports and airspace to fight terrorism.

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