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KARACHI, SUNDAY, FEBRUARY 5, 1950

GOVERNMENT OF PAKISTAN

MINISTRY OF FOREIGN AFFAIRS AND COMMONWEALTH
RELATIONS

NOTIFICATION

Karachi, the 5th February 1950

No. IA.3/50.—The following decisions given by the Indo-Pakistan Boundary Disputes Tribunal set up in December 1949 are published for general information.

2. The Appendices referred to in the decisions will be published later.

M. IKRAMULLAH,
Secretary.

Place below.

DECISIONS

given by

THE INDO-PAKISTAN BOUNDARY DISPUTES TRIBUNAL

in

Conformity with the agreement concluded at the Inter-Dominion Conference at Delhi on December 14th, 1948

between

THE DOMINION OF INDIA

and

THE DOMINION OF PAKISTAN

Relating to the interpretation of the report of the Bengal Boundary Commission, August 12th and 13th, 1947

I

By the Indian Independence Act, 1947, as from August 15th, 1947, two independent Dominions were set up in India, to be known respectively as India and Pakistan. According to Section 2(2), it was provided that the territories of Pakistan should be *inter alia* the territories which, on the appointed day, were included in the Province of East Bengal, as constituted under Section 3. It was laid down in this section that the Province of Bengal, as constituted under the Government of India Act, 1935, should cease to exist and that there should be constituted in lieu thereof two new Provinces, to be known respectively as East Bengal and West Bengal. The boundaries of the new Province of East Bengal should be such as may be determined, whether before or after the appointed day, by the award of a boundary commission appointed or to be appointed by the Governor-General in that behalf, and the expression "award" should mean, in relation to boundary commission, the decisions of the Chairman of that commission contained in his report to the Governor-General at the conclusion of the commission's proceedings.

(53)

Price : Annas 4

The Commission, known as the Bengal Boundary Commission, was constituted by the Governor-General on June 30th, 1947. The Commission presented to the Governor-General the following two reports dated the 12th and 13th August, 1947, respectively :

“REPORT OF THE BENGAL BOUNDARY COMMISSION

To

His Excellency the Governor-General.

1. I have the honour to present the decision and award of the Bengal Boundary Commission, which, by virtue of section 3 of the Indian Independence Act, 1947, is represented by my decision as Chairman of that Commission. This award relates to the division of the Province of Bengal, and the Commission's award in respect of the District of Sylhet and areas adjoining thereto will be recorded in a separate report.

2. The Bengal Boundary Commission was constituted by the announcement of the Governor-General, dated the 30th of June, 1947, Reference No. D.50/7/47R. The members of the Commission thereby appointed were

Mr. Justice Bijan Kumar Mukherjea,

Mr. Justice C. C. Biswas,

Mr. Justice Abu Saleh Mohammed Akram, and

Mr. Justice S. A. Rahman.

I was subsequently appointed Chairman of this Commission.

3. The terms of reference of the Commission, as set out in the announcement, were as follows :—

‘The Boundary Commission is instructed to demarcate the boundaries of the two parts of Bengal on the basis of ascertaining the contiguous areas of Muslims and non-Muslims. In doing so, it will also take into account other factors.’

We were desired to arrive at a decision as soon as possible before the 15th of August.

4. After preliminary meetings, the Commission invited the submission of memoranda and representations by interested parties. A very large number of memoranda and representations was received.

5. The public sittings of the Commission took place at Calcutta, and extended from Wednesday the 16th of July 1947 to Thursday the 24th of July 1947, inclusive, with the exception of Sunday, the 20th of July. Arguments were presented to the Commission by numerous parties on both sides; but the main cases were presented by counsel on behalf of the Indian National Congress, the Bengal Provincial Hindu Mahasabha and the New Bengal Association on the one hand, and on behalf of the Muslim League on the other. In view of the fact that I was acting also as Chairman of the Punjab Boundary Commission, whose proceedings were taking place simultaneously with the proceedings of the Bengal Boundary Commission, I did not attend the public sittings in person, but made arrangements to study daily the record of the proceedings and all material submitted for our consideration.

6. After the close of the public sittings, the remainder of the time of the Commission was devoted to clarification and discussion of the issues involved. Our discussions took place at Calcutta.

7. The question of drawing a satisfactory boundary line under our terms of reference between East and West Bengal was one to which the parties concerned propounded the most diverse solutions. The province offers few, if any, satisfactory natural boundaries, and its development has been on lines that do not well accord with a division by contiguous majority areas of Muslim and non-Muslim majorities.

8. In my view, the demarcation of a boundary line between East and West Bengal depended on the answers to be given to certain basic questions which may be stated as follows :—

- (1) To which State was the City of Calcutta to be assigned, or was it possible to adopt any method of dividing the City between the two States ?

- (2) If the City of Calcutta must be assigned as a whole to one or other of the States, what were its indispensable claims to the control of territory, such as all or part of the Nadia River system or the Kulti rivers, upon which the life of Calcutta as a city and port depended ?
- (3) Could the attractions of the Ganges-Padma-Madhumati river line displace the strong claims of the heavy concentration of Muslim majorities in the districts of Jessore and Nadia without doing too great a violence to the principle of our terms of reference ?
- (4) Could the district of Khulna usefully be held by a State different from that which held the district of Jessore ?
- (5) Was it right to assign to Eastern Bengal the considerable block of non-Muslim majorities in the districts of Malda and Dinajpur ?
- (6) Which State's claim ^{ought} to prevail in respect of the Districts of Darjeeling and Jalpaiguri, in which the Muslim population amounted to 2.42 per cent. of the whole in the case of Darjeeling, and to 23.08 per cent. of the whole in the case of Jalpaiguri, but which constituted an area not in any natural sense contiguous to another non-Muslim area of Bengal ?
- (7) To which State should the Chittagong Hill Tracts be assigned, an area in which the Muslim population was only 3 per cent. of the whole, but which it was difficult to assign to a State different from that which controlled the district of Chittagong itself ?

9. After much discussion, my colleagues found that they were unable to arrive at an agreed view on any of these major issues. There were of course considerable areas of the Province in the south-west and north-east and east, which provoked no controversy on either side : but, in the absence of any reconciliation on all main questions affecting the drawing of the boundary itself, my colleagues assented to the view at the close of our discussions that I had no alternative but to proceed to give my own decision.

10. This I now proceed to do : but I should like at the same time to express my gratitude to my colleagues for their indispensable assistance in clarifying and discussing the difficult question involved. The demarcation of the boundary line is described in detail in the schedule which forms Annexure A to this award, and in the map attached thereto, Annexure B. The map is annexed for purposes of illustration, and if there should be any divergence between the boundary as described in Annexure A and as delineated on the map in Annexure B, the description in Annexure A is to prevail.

11. I have done what I can in drawing the line to eliminate any avoidable cutting of railway communications and of river systems, which are of importance to the life of the province : but it is quite impossible to draw a boundary under our terms of reference without causing some interruption of this sort, and I can only express the hope that arrangements can be made and maintained between the two States that will minimize the consequences of this interruption as far as possible.

CYRIL RADCLIFFE.

NEW DELHI ;
The 12th August, 1947.

THE SCHEDULE

See Annexures A and B.

ANNEXURE A.

1. A line shall be drawn along the boundary between the Thana of Phansidewa in the District of Darjeeling and the Thana Tetulia in the District of Jalpaiguri from the point where that boundary meets the Province of Bihar and then along the boundary between the Thanas of Tetulia and Rajganj ; the Thanas of Pachagar and Rajganj, and the Thanas of Pachagar and Jalpaiguri, and shall then continue along the

northern corner of the Thana Debiganj to the boundary of the State of Cooch-Bihar. The District of Darjeeling and so much of the District of Jalpaiguri as lies north of this line shall belong to West Bengal, but the Thana of Patgram and any other portion of Jalpaiguri District which lies to the east or south shall belong to East Bengal.

2. A line shall then be drawn from the point where the boundary between the Thanas of Haripur and Raiganj in the District of Dinajpur meets the border of the Province of Bihar to the point where the boundary between the Districts of 24-Parganas and Khulna meets the Bay of Bengal. This line shall follow the course indicated in the following paragraphs. So much of the Province of Bengal as lies to the west of it shall belong to West Bengal. Subject to what has been provided in paragraph 1 above with regard to the Districts of Darjeeling and Jalpaiguri, the remainder of the Province of Bengal shall belong to East Bengal.

3. The line shall run along the boundary between the following Thanas :

Haripur and Raiganj ; Haripur and Hemtabad ; Ranisankali and Hemtabad ; Pirganj and Hemtabad ; Pirganj and Kaliganj ; Bochaganj and Kaliganj ; Biral and Kaliganj ; Biral and Kushmundi ; Biral and Gangarampur ; Dinajpur and Gangarampur ; Dinajpur and Kumarganj ; Chirirbandar and Kumarganj ; Phulbari and Kumarganj ; Phulbari and Balurghat. It shall terminate at the point where the boundary between Phulbari and Balurghat meets the north-south line of the Bengal-Assam Railway in the eastern corner of the Thana of Balurghat. The line shall turn down the western edge of the railway lands belonging to that railway and follow that edge until it meets the boundary between the Thanas of Balurghat and Panchbibi.

4. From that point the line shall run along the boundary between the following Thanas :

Balurghat and Panchbibi ; Balurghat and Joypurhat ; Balurghat and Dhamairhat ; Tapan and Dhamairhat ; Tapan and Patnitala ; Tapan and Porsha ; Bamangola and Porsha ; Habibpur and Porsha ; Habibpur and Gomastapur ; Habibpur and Bholahat ; Malda and Bholahat ; English Bazar and Bholahat ; English Bazar and Shibganj ; Kaliachak and Shibganj ; to the point where the boundary between the two last mentioned thanas meets the boundary between the districts of Malda and Murshidabad on the river Ganges.

5. The line shall then turn south-east down the River Ganges along the boundary between the Districts of Malda and Murshidabad ; Rajshahi and Murshidabad ; Rajshahi and Nadia ; to the point in the North-western corner of the District of Nadia where the channel of the River Mathabanga takes off from the River Ganges. The district boundaries, and not the actual course of the River Ganges, shall constitute the boundary between East and West Bengal.

6. From the point on the River Ganges where the channel of the River Mathabanga takes off, the line shall run along that channel to the northernmost point where it meets the boundary between the Thanas of Daulatpur and Karimpur. The middle line of the main channel shall constitute the actual boundary.

7. From this point the boundary between East and West Bengal shall run along the boundaries between the Thanas of Daulatpur and Karimpur ; Gangani and Karimpur ; Meherpur and Karimpur ; Meherpur and Tehatta ; Meherpur and Chapra ; Damurhuda and Chapra ; Damurhuda and Krishnaganj ; Chuadanga and Krishnaganj ; Jibannagar and Krishnaganj ; Jibannagar and Hanskhali ; Maheshpur and Hanskhali ; Maheshpur and Ranaghat ; Maheshpur and Bongaon ; Jhikargacha and Bongaon ; Sarsa and Bongaon ; Sarsa and Gaighata ; Gaighata and Kalaroa ; to the point where the boundary between those thanas meets the boundary between the districts of Khulna and 24-Parganas.

8. The line shall then run southwards along the boundary between the Districts of Khulna and 24-Parganas, to the point where that boundary meets the Bay of Bengal.

REPORT OF THE BENGAL BOUNDARY COMMISSION (SYLHET DISTRICT)

To

His Excellency the Governor-General.

1. I have the honour to present the report of the Bengal Boundary Commission relating to Sylhet District and the adjoining districts of Assam. By virtue of Section 3 of the Indian Independence Act, 1947, the decisions contained in this report become the decision and award of the Commission.

2. The Bengal Boundary Commission was constituted as stated in my report dated the 12th of August 1947 with regard to the division of the Province of Bengal into East and West Bengal. Our terms of reference were as follows :—

‘The Boundary Commission is instructed to demarcate the boundaries of the two parts of Bengal on the basis of ascertaining the contiguous majority areas of Muslims and non-Muslims. In doing so, it will also take into account other factors.

In the event of the referendum in the District of Sylhet resulting in favour of amalgamation with Eastern Bengal, the Boundary Commission will also demarcate the Muslim majority areas of Sylhet District and the contiguous Muslim majority areas of the adjoining districts of Assam’.

3. After the conclusion of the proceedings relating to Bengal, the Commission invited the submission of memoranda and representations by parties interested in the Sylhet question. A number of such memoranda and representations was received.

4. The Commission held open sittings at Calcutta on the 4th, 5th and 6th days of August 1947, for the purpose of hearing arguments. The main arguments were conducted on the one side by counsel on behalf of the Government of East Bengal and the Provincial and District Muslim Leagues ; and on the other side, by counsel on behalf of the Government of the Province of Assam and the Assam Provincial Congress Committee and the Assam Provincial Hindu Mahasabha. I was not present in person at the open sittings as I was at the time engaged in the proceedings of the Punjab Boundary Commission which were taking place simultaneously, but I was supplied with the daily record of the Sylhet proceedings and with all material submitted for the Commission's consideration. At the close of the open sittings, the members of the Commission entered into discussions with me as to the issues involved and the decisions to be come to. These discussions took place at New Delhi.

5. There was an initial difference of opinion as to the scope of the reference entrusted to the Commission. Two of my colleagues took the view that the Commission had been given authority to detach from Assam and to attach to East Bengal any Muslim majority areas of any part of Assam that could be described as contiguous to East Bengal, since they construed the words “the adjoining districts of Assam” as meaning any districts of Assam that adjoined East Bengal. The other two of my colleagues took the view that the Commission's power of detaching areas from Assam and transferring them to East Bengal was limited to the District of Sylhet and contiguous Muslim majority areas (if any) of other districts of Assam that adjoined Sylhet. The difference of opinion was referred to me for my casting vote, and I took the view that the more limited construction of our terms of reference was the correct one and that the “adjoining districts of Assam” did not extend to other districts of Assam than those that adjoined Sylhet. The Commission accordingly proceeded with its work on this basis.

6. It was argued before the Commission on behalf of the Government of East Bengal that on the true construction of our terms of reference and section 3 of the Indian Independence Act, 1947, the whole of the District of Sylhet at least must be transferred to East Bengal and the Commission had no option but to act upon this assumption. All my colleagues agreed in rejecting this argument, and I concur in their view.

7. We found some difficulty in making up our minds whether, under our terms of reference, we were to approach the Sylhet question in the same way as the question of partitioning Bengal, since there were some differences in the language employed. But all my colleagues came to the conclusion that we were intended to divide the Sylhet and adjoining

districts of Assam between East Bengal and the Province of Assam on the basis of contiguous majority areas of Muslims and non-Muslims, but taking into account other factors I am glad to adopt this view.

8. The members of the Commission were however unable to arrive at an agreed view as to how the boundary lines should be drawn, and after discussion of their differences, they invited me to give my decision. This I now proceed to do.

9. In my view, the question is limited to the districts of Sylhet and Cachar, since of the other districts of Assam that can be said to adjoin Sylhet neither the Garo Hills nor the Khasi and Jaintia Hills nor the Lushai Hills have anything approaching a Muslim majority of population in respect of which a claim could be made.

10. Out of 35 thanas in Sylhet, 8 have non-Muslim majorities; but of these eight, two—Sulla and Amiriganj (which is in any event divided almost evenly between Muslims and non-Muslims), are entirely surrounded by preponderatingly Muslim areas, and must therefore go with them to East Bengal. The other six thanas comprising a population of over 530,000 people stretch in a continuous line along part of the southern border of Sylhet District. They are divided between two sub-divisions, of which one, South Sylhet, comprising a population of over 515,000 people, has in fact a non-Muslim majority of some 40,000; while the other, Karimganj, with a population of over 568,000 people, has a Muslim Majority that is a little larger.

11. With regard to the District of Cachar, one thana, Hailakandi, has a Muslim majority and is contiguous to the Muslim thanas of Badarpur and Karimganj in the District of Sylhet. This thana forms, with the thana of Katlichara immediately to its south, the sub-division of Hailakandi, and in the Sub-division as a whole Muslims enjoy a very small majority being 51 per cent. of the total population. I think that the dependence of Katlichara on Hailakandi for normal communications makes it important that the area should be under one jurisdiction, and that the Muslims would have at any rate a strong presumptive claim for the transfer of the Sub-division of Hailakandi, comprising a population of 166,536, from the Province of Assam to the Province of East Bengal.

12. But a study of the map shows, in my judgment, that a division on these lines would present problems of administration that might gravely affect the future welfare and happiness of the whole District. Not only would the six non-Muslim thanas of Sylhet be completely divorced from the rest of Assam if the Muslim claim to Hailakandi were recognised, but they form a strip running east and west whereas the natural division of the land is north and south and they effect an awkward severance of the railway line through Sylhet, so that, for instance, the junction for the town of Sylhet itself, the capital of the district, would lie in Assam, not in East Bengal.

13. In those circumstances I think that some exchange of territories must be effected if a workable division is to result. Some of the non-Muslim thanas must go to East Bengal and some Muslim territory and Hailakandi must be retained by Assam. Accordingly I decide and award as follows:—

A line shall be drawn from the point where the boundary between the Thanas of Patharkandi and Kulaura meets the frontier of Tripura State and shall run north along the boundary between those Thanas, then along the boundary between the Thanas of Patharkandi and Barlekha, then along the boundary between the Thanas of Karimganj and Barlekha, and then along the boundary between the Thanas of Karimganj and Beani Bazar to the point where that boundary meets the River Kusiara. The line shall then turn to the east taking the River Kusiara as the boundary and run to the point where that river meets the boundary between the Districts of Sylhet and Cachar. The centre line of the main stream or channel shall constitute the boundary. So much of the District of Sylhet as lies to the west and north of this line shall be detached from the Province of Assam and transferred to the Province of East Bengal. No other part of the Province of Assam shall be transferred.

14. For purposes of illustration a map* marked A is attached on which the line is delineated. In the event of any divergence between the line as delineated on the map and as described in paragraph 13, the written description is to prevail.

CYRIL RADCLIFFE".

NEW DELHI;
The 13th August, 1947.