



Federalism in Pakistan and Its Challenges

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Abstract: This paper is an attempt to explore the challenges to political federalism in Pakistan. Federalism is an answer, or the solution significantly considered by multiethnic, multi-racial, multi linguistic and diverse style social country. Pakistan appeared on the map of the world about seventy-two years ago sharing the same with India. The constitutional debate to adopt the system of organizing and performing the state started from the beginning. After many ups and down and multidimensional settling of issues, Pakistan adopted federalism as principle for the smooth running of the state. Federalism remained intact in two late constitutions 1956, 1962 and semi late and current constitution of 1973. Right from the inception of federalism in Pakistan, challenges are continued to grow in different styles and different elements tried to create controversies regarding working of federalism. This paper is a focus study on the federalism in Pakistan and challenges to the federation in Pakistan. In this paper critically analysis of existing different sources would be analyzed to explore the challenges to federalism in Pakistan.

Keywords: Federalism; challenges; Pakistan

1. Introduction of Federalism

Accepting and adopting a legal and political principle for the administration of state is always a key moment in the life of a nation. Federalism is a political approach, a method and form of people-based government that attempts to form a political entity composed of diverse ethnic and linguistic identities and multi-dimensional segments existing in the state. This is an agreed formula on the basis of mutually settled legal and constitutional framework. The formula determines the relationships between central government and the federating units. It is an attempt to accommodate in a political union different linguistic, regional and divergent groups. The advantages to become members of a larger federal state is recognized by the units.

1.1. Working Definitions of Federalism

Federation has been defined by Ronald Watts as “a compound polity combining constituent units and a general government, each possessing powers delegated to it by the people through a constitution, each empowered to deal directly with the citizens in the exercise of a significant portion of its legislative, administrative, and taxing powers, and each directly elected by its citizens [1]. By the federal principle I mean the method of dividing powers so that the general and regional governments are each, within a sphere, co-ordinate and independent” (John. 2013). Federalism is a political organization in which the activities of government are divided between regional

governments and a central government in such a way that each kind of government has some activities on which it makes final decisions'[1]. Similarly, we can say that Federalism is an endeavor to promote coordination and cooperation, in heterogeneous societies, in political, administrative, social and economic fields. It also tries to accommodate and respect the identities of the constituent regions.

1.2. Essentials of Federalism

The smooth working of federalism is facilitated by certain factors. These factors are:

- The units must share a sense of community: The units desiring to federate must share a spirit of community. Each of them should be willing to shoulder their responsibilities and make sacrifices in the cause of the whole. This spirit of community could only be produced, when the units to be federated share some common bonds, such as ethnic, linguistic, cultural, and historical or, some shared political goals. At the same time, there must be a desire to retain their individual regional character and some measure of independence as to abhor the idea of a unitary state[2].
- Sharp inequalities must not be there in population, size and resources: One of the reasons due to which states choose federalism is heterogeneity. However, tensions in a federal polity are created due to sharp inequalities in population, size and resources. It works, if there would be no sharp differences in a federation and no threat of domination of smaller units by a larger one. In policy matters, there could develop a struggle for ascendancy, if powerful units are more the one. Thus, there would be difficulty for a federation to work.
- Equitable sharing of economic resources: Federalism is facilitated by interaction between units and the center as well as among different units. Nevertheless, the relationship should be interdependent rather than dependent.
- Geographic contiguity: In the enhancement of the working capacity of a federal system, geographic contiguity is a significant factor, irrespective of the modern means of transport and communication. It helps in developing a sense of nationhood by facilitating them to travel, interact and develop economic bonds. It is difficult to achieve national unity is difficult to achieve where people are far apart from each other[2].
- Greater decentralization: In a democratic and decentralized political system, federalism increases the probabilities for the people to participate in politics. A culture of political discussions is developed among the citizens. Furthermore, the division of power between center and units multiplies the chances of encouragement for political parties to participate in political activities more enthusiastically (John. 2013).

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1.3. Federalism in Pakistan

Understanding the multiethnic and multi linguistic dimensions of the state of Pakistan, the acceptance of a federal form of government was deemed essential for the country. No other issue rose such disagreements in the constitutional deliberations as did the central-units correlation and federalism. The doctrine of federalism, however, have been diluted since 1947. Pakistan came into being on 14 August 1947 as a sovereign federal state. Federalism was the rational option for the cultural, linguistic and ethnic diversities of Pakistan. However, the country faced severe problems to evolve a working federal system ensuring interdependence and harmony among the provinces. Though there was a consensus on the creation of a federal system. To counterbalance parochial and regional sentiments, the central government highlighted unity based on Islam [3].

2. Historical Background

Advent of Pakistan on the scene of the world as a federal state as it was logical and suitable for the state having diversity in language, race, inclinations, and geography. But despite having broad understanding, consensus and compromises of all the political elites on federalism. The working and evolving of federalism in Pakistan faced serious problems. This was one of the key issues that delayed the constitution making in Pakistan. After the independence, the Government of India Act 1935 was implemented as the provisional legal order with slight modifications, while

the legislative Assembly was commissioned for drafting a workable constitution. It ought to be take into consideration that the Government of India Act 1935, as a regal tool, produced a federal structure but the allocation of power and authority was tilted towards the center which was in the hands of the masters. The Subcontinent Independence Act 1947 was adopted as an interim structure which included provision of different Indian Council Acts and the Government of India Act 1935[4].

At the time of its creation, Pakistan was conceived to be a federal country. It could be attributed, to some extent, to the fact that earlier to freedom, All India Muslim League demanded self-government under the British umpire. Furthermore, Partition Plan (1946), the Muslim members of the provincial assemblies were given a choice they were either to stay in the India Union or to form their independent federal state. While, it was also significant to keep view the ethnic diversity, mode of social interactions, origin and language in order to guarantee the solidarity of the newly born democratic state. The task of forming new constitution to accomplish the full freedom was delayed due to many reasons .One of the major cause for the delay in constitution formulation was the political instability in the country after 1952. In a span of four year, four governments were changed. Thus, impeding the constancy essential for the constitutional development. The first Constitution was implemented in 1956. This first constitution overtly declared Pakistan as a federal union. But the old British tactic and formula of power allocation remained intact. Due to the legal and political instability that followed in its repercussion, this constitution was abrogated on 17 October 1958 by President Sikander Mirza and martial law was imposed appointing Ayub Khan as Martial law administrator. On 27 October Sikander Mirza also shared the same and Ayub Khan become real taskmaster[5].

It was the beginning of the political instability and Civil Military clash that has disfigured the foundations of a firm political traditions in the country. The army has ruled over the country for a total period of more than thirty years. In the history of the country after independence, for the first time, General Ayub captured the reigns of the government in 1958. During his rule, second constitution was announced and implemented in 1962. This constitution was prepared by non-representative members and key civil servants. After promulgation of this constitution, a legislative assembly was established. Local government system was introduced with the name of Basic democracy. The members of this local system act as Electoral College for the presidential election. General Ayub was elected by the same Electoral College as the president. In 1969 Mass agitation started against Ayub khan and he resigned from the office with handing overpowers to another general Yahya khan. Under the rule of Yahya khan first general election in Pakistan took place (Uruzzaman. 2010).

2.1. Disintegration of Pakistan: A challenge of federalism

In East Pakistan the Bengalis were quite unhappy over the constitution made by President Ayub in 1962.It was viewed by them as a mechanism of West Pakistan for suppressing their aspirations and interests. This cause of the Bengalis was taken seriously in East Pakistan the Awami League which was a famous political party in Eastern Wing. The leader of Awami League, Sheikh Mujibur Rahman presented his 'Six point 'formula. He demanded that the central government has to transfer all powers to the provinces except foreign affairs and defense. Evidently, the demand of the six-point was a reaction to the concentration of powers in the center and the suppression economic and political interests of Bengalis. Instead of fulfilling the demand of Benglis, in 1969, hand over the reins to the government to General Yahya Khan. Resultantly, the situation became more critical. Elections were held in 1970 under the new military ruler. The Awami League became successful in the elections by getting majority of seats in Bengal and in the parliament but was given the right to form its government. Yahya Khan was forced to make arrangement for the resolution of the issues as a result of mass movement by the Bengalis, but the results were not fruitful (Jahan, 1972). Zulfikar Ali Bhutto further complicated the situation. Majority of the assembly seats were won by his party in West Pakistan. He proposed that as both the parties have majority in the respective wings so they should form coalition government. Yahya Khan, fearing that in case the Awami league form its government in the center, it might implement the six-point formula. Therefore, on March 25, 1971, he ordered a military

crackdown on the people of East Pakistan, who were demanding the formation of government in the Center on the basis of election results. The crackdown concluded on December 16, 1971 as Bangladesh proclaimed its independence [6].

After the creation of Bangladesh, power was handed over by Yahya Khan to the leader of Pakistan People Party, Zulfikar Ali Bhutto. The most important task achieved by this government was framing and promulgation of the constitution of 1973. On 10 April the parliament approved it and was ratified by it on August 14, 1973. However, in 1977, General Zia overthrew his government. The power sharing formula between the Center and the provinces remained hard task to settle down. Different arrangements and formulas were presented and tried but remained unsuccessful. At last after adopting trial and error theory from 1947 -1973, we the Pakistani came out victorious on 14 of august 1973 by adopting a constitution with federalism as key arrangement of governance. But still there are challenges and problems to federalism in Pakistan. Among these challenges, economic disparities, centralization of powers, non-participative and autocratic style of governance, over emphasis on regionalism, creation of controversial issues are significant [7].

2.2. Challenges of Federalism in Pakistan

After having a perspective of federalism in Pakistan in this section we will discuss the issues and challenges to federalism in Pakistan. Since the enforcement of 1973 constitution time and again new challenges emerged to federalism. For the smooth running of a federation, a working balance between the unifying and diversifying forces is much essential. It remained a difficult task to maintain such type of balance in Pakistan. A greater pressure was asserted by the diversifying forces on the system, undoubtedly, weakening unifying forces. Common religion provides the foundation to the federation of Pakistan, but as the jubilation of fight for independence dissipated, the people stopped to listen to its appeal. Distrust and suspicion were created amongst the leaders of the provinces. The mistrust is much prominent in smaller provinces. It has negative repercussions for the smooth functioning of federalism in the country. Some of them are as follows:

2.3. Hegemonic status of Punjab

The most developed and populous province of Pakistan is, Punjab. It was titled as the 'corner stone' of Pakistan by Quaid-e-Azam because of its strategic position and large Muslim majority. Its formal system of education was comparatively developed at the time of partition. Mostly, the people of this area were technically skilled like tanners, potters, masons, black smiths etc. Besides, in the civil services and the armed forces they were in dominant position. Even now, they continue to be dominant in these services and having a clear edge over other provinces including industry, education and human resources. It is adversely affecting the smooth functioning of the state system because of the resentment among the other provinces. The other provinces are of the opinion that they are not permitted to take part in decision making at the country level and are deliberately kept under-developed by the elites of the Punjab. A major theme developed in the politics of the weak provinces is the issue of domination of Punjab. This has probably, endangered the feasibility of the federation [8].

2.4. Centralization of Power

In Pakistan the federal administration repeatedly ignored the political ambitions of the people of different federating units. It shaped strapping feelings in the provinces that the federal elites did not endure dissent and sought to govern the federating units with a stiff style. In actual facts despotic and totalitarian political arrangement negates the essence of federalism, highlight mistrust and common fear. The frequent armed forces intrusion and episodic constitutional breakdown also destabilized the position of units and reinstate powers concentration in federal governments and promoted nondemocratic culture.

The Current constitution of Pakistan has redefined federalism as "utmost provincial autonomy". The 1973 constitution enclosed two power sharing lists before the 18th amendment: Federal list and the Concurrent list. The

Federal list had two parts. Over the items in the first part, only the Parliament had power to make laws. There were 67 items in the Federal list. Over the concurrent list, both the units and federation had the power legislate. But in case of disagreement over any issue, the right of the federal government would prevail.

During Bhutto regime the role of federal government was very strong, ensuing dissatisfaction in two units, Baluchistan and NWFP. The majority alliance government of Attaullah Mengal was dismissed by Bhutto on February 15, 1973 under the interim constitution when he was temporary president even earlier than the constitution of 1973 could function. Against the dismissal of the assembly of Baluchistan, the government of NWFP under Mufti Mahmood resigned. Afterward, the NAP was debarred in February 1975. Its cream leaders were detained under the charges of plot against the state. Political commotion in the two governments was a waft to federalism. The right to be heard of opposition in the National Assembly was lowered. All these steps significantly debarred the federalism [9].

These are the examples of the dominance of central Government, later on these examples were followed by Military and so-called democratic government of the state. The development of federation was further spoiled by the armed takeover in 1977, when General Zia controlled the power for another 8 years. Concentration of power remained in the hands of Army from 1977 to 1988. Practically they run the in autocratic and unitary manner ignoring federalism. Many undemocratic presidential enactments soon covered by 8th modification to the 1973 constitution. The first main amendment to the constitution was carried out in this period that changed the original essence of the constitution. This amendment was used as a tool for enhancing the president powers and shielding the orders and ordinances of the President proclaimed during the period 1977 to 1985. The federal character of the constitution was not much changed by 8th constitutional amendment. However, practically all the affairs were dealt in autocratic and unitary way. It increased the legislative powers of the Senate. The upper house powers of amendment in constitution were enhanced [10].

The main and vital characteristics of federal system is acceptable division of powers between the centre and units. The mutual and long-lasting agreement on the power sharing formula is necessary. Federalism is admired and realistic system of administration between the center and units all around the globe, because it guaranteed advantaged units over federation and maximum autonomy. Regarding the issues of national importance, the central government may have omnipotence to legislate over the units; however, the units are allocated sufficient powers. In Pakistan, the central government and legislature always maintained overriding position over the provinces right from its inception. In August 1947 removal from office of Dr. Khan Shaib Ministry in KPK. M.A. Khuhro in April 1948 in Sindh, Mamdot, s in January 1949, and in East Pakistan Ministry of Fazalul-Haq in 1954, in spite of their majority in their respective provinces. It shows autocracy of the federal government over the provinces. These actions were not merely regarded as the dictatorial dimension but shaped a pattern which afterward show the way to federal government to reinstate their power to sack governments in the provinces [11].

There are many factors accountable for the burly roles of the central government in Pakistan. Among them, three of these are most important. First, the country was running in the initial period (from 1947 to 1956) without any workable constitution. During this era the political system was almost converted into a unitary form of government. In all the political system, the equilibrium of authority remained with the central government. For many years, Pakistan had remained under the military rule. In that kind of political arrangement, the position of the center becomes superior. Thus ignoring basic principle of federation. The government formed under the constitution of 1956 worked only for two years. The collapse of a 1956 constitution-based government resulted in armed forces take over under Ayub Khan. The direct consequence of which was seriously undermining the prospect of democracy. Ayub Khan resigned from his autocratic rule in 1969. Yahya Khan re-declare martial law which culminated in the dismemberment of Pakistan in 1971 compelling the new dictator to flew away.

Only bringing the state under democratic rule for 6 years ,again History repeat itself on 5 July 1977.Armed parade again started in every state institution to subjugate own peoples . Zia Ul Haq, 1977 armed adventure ended the constitution for the next 8 years and 3 years more with disfigured shape .The disfigured shape of the constitution brought by 8th amendment, made the center and the President more powerful. The President got the powers this Amendment to dissolve the assembly without the consultation of the Prime Minister if it is unsuited with the constitution and state interest. The dissolution of Assembly power crippled down the democracy and enhanced the powers of the centre .This dictatorial power was used four times ,one time by uniform president and three time by civilian presidents in, 1988, 1990, 1993, and 1996 under notorious section 58 (2)-B . These powers of the President were finished through 13th amendment but reinstated under Martial law government in civilian clothes by Pervaiz Musharaf[12].

The 18th amendment in the constitution carried out in 2010 in Pakistan People's party led coalition government is remarkable step towards provincial autonomy. This amendment bestowed many powers to provinces previously held by centre. However, even after 8 year of passing of this amendment practically most of powers are still under strong central control due to incapability of these provinces [8]. Secondly, all political system adopted in Pakistan showed the application of powers molded in favor of federal government. In past three political set ups, the central list was bulky according to the quantity of powers. The assurance of provincial preeminence appeared only a slogan without any practicality. In first constitution, all the significant legislative and executive powers remained in federal list. In second one man show constitution of 1962, the division of powers was greatly in support of the Islamabad. In 1973 constitution a comparable domination was also recognized. Pakistan having a Society, which is racially diverse and socio – culturally multifaceted, was in need of a stable federation in which units have constitutional powers and structure to apply legislative, fiscal and executive powers.

The third reason behind the strong central role is anti-democratic and anti-federalism attitude of our politician. If we analyze the democratic governments from 1971-1977, 1988-1999 ,2008-2018, we would come to the conclusion that all the parties that formed central governments remained inclined to concentrate more powers in the Centre. Political culture and behavior of most of the politician is nondemocratic because our political parties are hereditary in nature. A few families are beneficiaries of political output [5].So we can say that central tendency for the concentration of powers and autocratic centralized political behavior of Politian and powered elites is one of the key challenges to federalism in Pakistan.

2.5. Finance Distribution

High-quality federalism founded on just and strong division of centre-province financial and political power relationship. It must be in accordance with the needs and desires socio-cultural and geo-political conditions of the country. The relationships in federalism are based on financial and political cooperation. Monetary disparities and unjust treatment of the deprived classes result producing grievances against the central government in the provinces. In Pakistan the central provinces financial relations are not cordial and is a source of creating multi-dimensional issues.

In 1951, reforms called 'The Raisman' Award, though started in 1947, and was enacted by Pakistan in 1951. This award was prepared by Sir Jeremy Ramanand then was approved by Liaquat Ali Khan. According to the program, the program, the taxation was centralized. The share of the four provinces was 56%. Since 1951, the program had enacted only three NFC awards of 1961, 1964 and 1970 [3]. Starting from Raisman Award to the National Finance Commission award of 1990, all provinces are continuously showing their hesitations over the allocation of shared taxes and revenue from the countrywide assets. The central government is alleged of having predomination over the units in financial affairs. The distrust and disappointment in the federating units of Sindh, KPK and Baluchistan are over the share of finances, as in relation to the assets that these Units are providing.

National finance commission awards are always remained a source of mutual distrust between center and provinces. In recent democratic era the federal and provincial relations over the distribution of finances created a tussle especially when in federation ruling party belongs to other than provincial ruling party. When PPP was in federal government from 2008-2013, PMLN government of Punjab used to cry over finance distribution. When PMLN came to power in center from 2013 -2018 CE,PP government in Sindh and PTI government in KPK always raised their concern about financial matters[13].Interesting fact is that some time the federal government and Provincial government both belongs to same party still reservation remains intact. So we can conclude that financial resources allocation and distribution between the provinces and the center in the past had been a challenge and issue and still this is a big challenge for the federalism in Pakistan. A mutually agreed, well defined and based on principles agreement must be work out as it is a need of the hour.

Concerning an improved fiscal relation for the estimation of provincial assets and the economic agreement for development, more cooperative dialogs are desirable between the center and units. Taking into considerations the developmental necessities of minor units, resources should not only be given on parity basis but on basis of need and requirements. For instance, Baluchistan is least populated Province but also least developed that's why its requirements are higher than other provinces.

2.6. Water Disputes

On the distribution of the water, an old debate is there among the units of Pakistan. Every province want to face challenges of the future and meet its necessities. Now the water disputes among provinces are source of constant challenge to stable federalism in Pakistan. There are water disputes between Sind and Punjab, between KPK and Punjab. In Pakistan, lack of confidence between Sindh and is the most burning of the water issues among the provinces. Sindh as a lower riparian has reservations over the withdrawal of upper canal. It considers that Sindh would be deprived of has already been deprived of its share of water by Punjab. Therefore, it observes any new project in the water sector with great suspicion. It justifies its suspicions on historical events [1].Pakistan, after its creation was facing serious water issues. It signed an agreement an agreement with India in 1960 and solve water issue. Though the national water problem was solved to some extent but inter provincial water disputes emerged over the time. Different governments always tried to have the agreed solution of these water disputes but still not resolved them. Up to 1991 that seven commissions were formed to formulate recommendations in this regard but did not succeeded. To solve these disputes another attempt was made by forming Indus River System Authority (IRSA) in 1991. Its main objective was to play its role in resolution of the dispute of water and to ensure a just distribution of water according to the worldwide standards [4]. The dispute over is the main source of discontent among the provinces. Presently, it is certain threat for the federal system in the country. It can be resolved on basis international law and principles of federalism concerning water sharing. CCI may play its role to distribute the water fairly among the provinces, as IRSA has been almost failed in this regard.

3. Conclusion

After the establishment of Pakistan in 1947, it was felt inevitable to base its foundation on federal system looking to the economic, social, geographical and historical background of the country. However, the spirit of compromise for practical purposes of federalism was not displayed. The center tried its best to dominate the units. The provinces were not encouraged by the elites of the centralized government to participate in the affairs of the federal government in real. Resultantly, the voice for greater provincial autonomy was raised by the units for safeguarding their rights Democratic and consensual centralization does not disfigure federalism to a large extent. These features were not there in the newly born Pakistan. There was authoritarian and undemocratic political management accompanied with centralization. Neither democratic norms were respected by the central government nor regular and free elections conducted. Resentment was increased those provinces that demanded financial, administrative and political autonomy due to the dictatorial and non-representative management. Federalism with

the autonomous provinces the only workable choice to resolve political, economic and administrative issues of the country by analyzing its political history and ethnic diversities. To move in the direction of provincial autonomy, decentralization, free and fair elections and democracy in the need of the day. To conclude, strong and autonomous provinces denote a stable Pakistan.

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