

NAVIGATING THE COMPLEX LANDSCAPE: ANALYZING CONTEMPORARY CHALLENGES AND THREATS TO FEDERALISM IN PAKISTAN

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ABSTRACT

Pakistan's federal system has evolved over seventy-five years amidst achievements and challenges. This paper delves into Pakistan's federalism, analyzing its stages through constitutional mechanisms and navigating the complexities of its political climate. Despite diverse provinces and ethnicities, maintaining federal strength faces hurdles such as ethnic conflicts, economic disparities, and demands for provincial autonomy. Ethnic and linguistic diversity, aggravated by historical grievances, strains federal cohesion, with calls for more provincial autonomy intensifying pressure on centralized power. Economic disparities among provinces further strain federal relations, exacerbated by unequal resource distribution and development. External factors like security and geopolitics complicate matters. The study examines how political institutions exacerbate or alleviate these issues, emphasizing the need for a nuanced understanding of evolving federal dynamics to promote effective governance and national unity amidst modern challenges.

Key Words: Federalism, Pakistan, governance, provincial autonomy.

INTRODUCTION

Federalism embraces a perspective, philosophy, and conceivably an ideology, endorsing a specific model of territorial governance. This model involves a blend of decentralizing certain political authorities while centralizing others. The term "federalism" traces back to the Latin word *foedus*, signifying leagues or alliances among governments, typically formed through treaties, covenants, or agreements, often for defensive purposes (Watts, 1998).

Federalists advocate for federal political systems, which incorporate self-rule and shared rule concepts into their territorial plans (Elazar, 1987). States with significant populations and expansive territories have adopted a federal system. In countries marked by diverse demographics, this choice becomes particularly crucial. On the contrary, nations with more homogeneous populations may not require the institutional framework necessitated by diversity. When diversity is extensive, it is crucial for a political system to address the unique needs of each population segment. This often leads to the

emergence of regional entities, requiring legal and political mechanisms to harmonize them. A federal structure involves two levels of governance: a central government for the whole nation and regional governments for specific territories.

The interaction between these entities, facilitated by constitutionally established institutions and political processes, shapes the nature of the federal system. Extensive theoretical literature exists on federalism, alongside practical studies exploring its operational aspects (Bulmer, 2017).

In the contemporary era, the 1787 United States Constitution is regarded as the initial attempt to create a federal form of governance. Federalism was then enshrined as a form of political organization in the Swiss, Dominion of Canada, and Commonwealth of Australia and India Constitutions. Federalism's foremost proponent, K.C. Wheare, acknowledged in 1945 that existing federations were trending toward a concentration of central authorities that in some situations threatened the federal ideal due to war and economic hardship. On the other

hand, federalism was experiencing a widespread popularity such as it had never known before (Beloff, 1953).

The entirety of this collection can aid in comprehending the unique aspects of federalism that are essential for a country to legitimately claim such a system. It can also serve to highlight, in a comparative context, the precise positioning of a specific federation. While avoiding delving into theoretical debates, it appears pertinent to include some references to foundational works to gain a clearer understanding of how the dual levels of government within a federation should be perceived to ascertain its authenticity. For instance, A.V. Dicey, a well-known constitutional scholar, characterized a federal state as a political mechanism designed to harmonize national unity and authority while upholding state rights. Similarly, in his seminal work on federalism, K.C. Wheare opts to pinpoint a guiding principle inherent in federal systems, termed the federal principle, which delineates a method of power division ensuring that both central and regional governments (Dicey, 1973) operate within their respective spheres, maintaining coordination and independence (Wheare, 1963).

According to this principle, within a federation, citizens must adhere to two sets of laws: those established by the central government and those by provincial governments. Additionally, it is essential to clearly define the respective jurisdictions of these two sets of government to prevent interference or overstepping boundaries. This description of authority is crucial for the efficient operation of the federal system. Consequently, the constitution plays a vital role as it serves as the agreement between the central and regional governments. This underscores the significance of the supremacy of the constitution within the federal system. Furthermore, this principle implies that since the constitution is a pact between the central and regional governments, its terms cannot be unilaterally altered by either party (Watts, 1998).

Making amendments to the federal constitution is a challenging task. In some federations, constituent units play a direct role in the amendment process, while in others, although units lack direct involvement, the constitution remains rigid and can only be amended by the federal parliament through a cumbersome process. Typically, a two-thirds majority is necessary for amendments, contrasting with the simple majority

required for regular legislation. Presently, there are 28 federations worldwide, encompassing 40 percent of the global population, yet they differ in the balance of power between central and regional governments (Anderson, 2008).

Origin of Federalism in British India

The British government set up federal institutions in India, as it did in her other colonies such as Canada, Australia, and Malaysia. The Morley-Minto Reforms of 1909 laid the foundations for these institutions in India and provided political representation to religious minorities in the central and provincial legislatures through a system of separate electorates or nominations (Thorat, 2019).

The non-majoritarian approach of this Act seems quite plausible and appropriate for the political accommodation of various segments of the society, given the complex multiethnic and multi-religious nature of Indian society. Subsequently, the Congress and League endorsed this approach by signing the Lucknow Pact in 1916, which proposed the over-representation of Indian Muslims in the Central Legislative Assembly (one-third against their nearly one-fourth population size) and a separate electoral system and constitutional safeguards for legislation, related to their religion or culture (Owen 1972).

These provisions recognized Muslims as a separate group/nation and provided them with non-territorial autonomy and power-sharing. Then, the Government of India Act 1919 moved a step further. It not only adopted several proposals of the Lucknow Pact but also provided limited autonomy to the provinces. This Act established a system of limited responsible government known as the “dyarchy system”. It is argued that this dyarchy system served as the basis for the creation of federal institutions in India by granting the provinces a certain amount of autonomy, transferring some subjects to Indian ministers who were accountable to the provincial legislatures, and leaving other subjects up to the provincial governor's discretion (Rudolph & Hoeber, 2010: 561).

Evolution of Federalism in Pakistan

Pakistan ratified the Government of India Act of 1935 with minor modifications, effectively serving as its initial provisional constitution. It is important to note that while the British government established a federal system, its primary goal was to further

British interests, and the act's authority balance favored the center over the federating divisions. Although the federating units were granted a portion of the governance, the center still holds ultimate control. Federating units had restricted authority. Though it took nearly ten years to draft a constitution, there had been expectations that it would be adopted quickly (Khan, 2001: pp. 884-89).

For nearly a decade, the Government of India Act of 1935 remained in effect. Despite the Act's minor modifications, it gave the Governor General the ability to overrule the provinces and the legislature. This Act has a quasi-federal character due to the Governor General's powers. In contrast, the circumstances the nation inherited necessitated a carefully considered federal system with precisely defined central authority and power in order to maintain both the autonomy of the federating units and the center's efficacy and authority. The dismal circumstances that pervaded the county for nearly ten years were depicted.

Undoubtedly, during the freedom struggle, the populace had acquired adequate political training and established a national identity rooted in Islam. They had great expectations that these two components would be successfully applied to address the political and strategic challenges confronting the newly formed state, but the results fell short of their expectations. Such difficulties and problems that were outside the purview of the political elites and leadership arose during the constitution-making process (Choudhury, 1969: p. 67-84; Choudhury, 2007: p. 49-60; Ahmad, 2009: p. 19-80; Sayeed, 1967: p. 60-70; Shafqat, 1989: p. 87-97; Wheeler, 1970: p. 91-110).

Such issues made it challenging for the concept of federalism to function as envisioned. Among the main concerns were:

1. The problem of representation in the center and in units
2. The federating units' authority and degree of independence
3. The question of national language
4. The question of election forms.

The Vice-Regional system persisted under the 1935 Act, with the Governor General and the central government holding vast powers. The parliamentary system cannot coexist with the vice-regal system, despite attempts to plug it in. Consequently, the military and bureaucracy stepped in to fill the space left by this. The future

constitutional evolution of Pakistan was significantly influenced by this element. Disparities between the idea and reality of federal structures clearly contribute to ethnic mobilization and political instability in Pakistan. Even though the Pakistani Federation satisfies the requirements for federalism, it functions more like a unitary system in practice. The less flexible a federal system is, the less it can handle variations in ethnicity and territory. The unclear operational approach seems to be why Pakistan struggles to manage its diverse ethnic groups effectively.

Federalism's Prospects and Challenges in the Contemporary Scenario

In modern times, federalism as a form of government has both opportunities and difficulties. This system of governance, which shares power between a centralized authority and subnational entities, has been put into place in many different nations throughout the world. Here, we examine a few of the difficulties and opportunities that come with federalism in the current setting. A significant obstacle to federalism is the possibility of power disparities between the federal government and subnational organizations. The possibility exists that as the federal government gains authority, states' or provinces' autonomy may be diminished. Conflicts over jurisdiction and decision-making authority may arise from this imbalance.

Regional economic imbalances are a common problem for federal systems. Financial obligations to less affluent places may make wealthier regions feel burdened, which could cause conflict and calls for fiscal autonomy. It becomes a constant challenge to ensure equitable development and close economic inequities. Federalism cannot work well without effective coordination and collaboration between the federal government and subnational organizations. Nonetheless, successful cooperation may be hampered by disparities in political priorities, philosophies, and laws. Inadequate coordination could lead to disjointed approaches to problems including infrastructure, education, and healthcare. National identity and unity may be threatened by federalism, particularly in nations with varied linguistic, ethnic, or cultural groupings. Since regional identities and aspirations may conflict with the broader national narrative, striking a balance between the need for a shared

national identity and regional autonomy becomes a challenging challenge (Kundi, 2002).

Prospects

Federalism makes decentralized governance possible by enabling subnational organizations to customize policies to suit regional requirements and preferences. Due to their superior ability to handle particular issues within their purview, local authorities may become more responsive and successful in their governance. Within federal systems, there are built-in checks and balances due to the division of powers. This can shield against possible abuses and stop the consolidation of power in the hands of one organization. The presence of several tiers of government guarantees that decisions are examined from different angles.

Federalism encourages experimentation and creativity in the creation of public policy. Subnational organizations can act as test beds for novel concepts and methods, facilitating the broader adoption of effective policies and encouraging healthy regional rivalry. Under federalism, different cultural and regional identities can be represented in the political structure. A more inclusive and pluralistic society is fostered by this recognition and inclusion, which reinforces a sense of belonging across many cultures.

The difficulties and opportunities presented by federalism in the modern world, in summary, emphasize the careful balancing act necessary to guarantee efficient governance. With the possibility for decentralized government, checks and balances, innovation, and cultural representation, federal systems provide reason for optimism even in the face of major obstacles from power imbalances, economic inequities, and coordination issues. Nations' capacity to overcome these obstacles and seize the chance to establish a more responsive and robust system of government will determine how well federalism works.

Federalism in Pakistan in the context of constitutional framework

In Pakistan, a federal system of governance shares authority between a national government and local or provincial governments. Since Pakistan gained its independence in 1947, federalism has changed within the framework of its constitution. The Pakistani Constitution, which was adopted in 1956 and has undergone multiple revisions since then,

establishes the country's federal structure. The lines dividing the authority of the federal and provincial governments are drawn by the Constitution.

The Pakistani Constitution lays out the division of powers between the federal government, which is in charge of defense, foreign policy, currency, and communication, and the provincial governments, which are in charge of things like local government, health, education, and agriculture. Both governmental levels share concurrent authority.

Pakistan's federal system gives its provinces a great deal of independence. Every province possesses its own legislative, executive branch, and judicial branch, endowed with the authority to enact laws on subjects not specifically designated for the federal government's purview. Political developments and constitutional reforms have reinforced provincial sovereignty throughout time.

Created under the constitution, the Council of Common Interests was designed to settle conflicts and foster goodwill between the federation and the provinces. In addition to other members designated by the Constitution, it is composed of the Prime Minister and the chief ministers of each province. In addition to other topics of common interest, the CCI deals with resource allocation and economic planning challenges. The National Financial Compensation Award serves as a vehicle for the fair allocation of funds between the federal and provincial governments. In order to ascertain each province's portion of federal revenue, it was established by the Constitution. Revisions and reviews of the NFC Award are conducted on a regular basis to take into account the evolving needs of the provinces.

In order to strengthen the federal government and take into account the concerns of the provinces, a number of constitutional amendments have been adopted. Among the notable revisions are the Eighteenth Amendment, which increased provincial autonomy by giving the provinces additional authority, and the Twenty-Fifth Amendment, which updated the process for the constituency delimitation.

Pakistan has problems such inter-provincial conflicts, resource distribution disputes, and difficulties between the federal government and provincial governments despite the constitutional structure for federalism. The efficiency of decentralization and provincial autonomy is still up

for discussion and continuous modification, despite ongoing efforts to improve federalism.

Pakistan's federalism, as delineated in its constitutional framework, institutes a shared governance framework between the federal government and the provinces, with the objective of accommodating the nation's heterogeneous socio-political terrain while simultaneously upholding national unity and stability.

Federalism under 1956 Constitution

In Pakistan, there was a significant geographic and demographic imbalance between its two wings. East Pakistan's elites favored a bicameral legislature to maintain dominance over the Western wing, while West Pakistan sought parity between the two wings to prevent East Pakistan from gaining supremacy, especially concerning the elite class of Punjab. Both the 1950 and 1952 reports of the Basic Principle Committee were rejected on these grounds.

The Muhammad Ali Bogra Formula aimed to address this by proposing parity between the wings. The One Unit scheme of 1955 merged four provinces of West Pakistan, creating further tension. Sovereignty distribution was also contentious, with East Pakistan, NWFP (present-day KPK), and Sindh advocating for greater self-government, opposed by Punjab's desire for a strong central government, as outlined in the provisional constitution of 1947. Language was another point of contention, with Bengali demanded as the national language but other provinces concerned for their languages. A compromise was reached by declaring both Urdu and Bengali as national languages in 1956. This constitution addressed various challenges but still favored the central government, reflecting the nation's constitutional and cultural heritage. The constitution of 1956 established thirty subjects for the center and ninety-four for federating units, alongside the creation of a national monetary council and a finance commission. A federal court was also established to interpret the constitution.

The 1956 constitution failed to be implemented, leading the country into a state of martial law, concentrating power in the hands of a single individual rather than following a constitutional approach. Ayub Khan, a military bureaucrat, focused on reinforcing his autocratic rule rather than establishing parliamentary democracy. The constitution he introduced favored a strong central government, evident in the delineation of

powers between the federal government and the federating units. The President wielded significant authority, supported by a powerless unicameral legislature. Provincial governors, appointed by the President, mirrored this centralized control. Despite the diverse cultural and demographic landscape, federalism was disregarded under unyielding leadership. The constitution's failure led to the President's resignation, followed by another period of martial law, extending until the tragedy in East Pakistan in 1971. The lack of a federal structure in the constitution contributed significantly to the downfall of East Pakistan.

Federalism binds territories under one administration. In Pakistan, federalism has posed challenges to the state's unity. When Yahya Khan succeeded Ayub Khan, he abolished the One Unit scheme, making Baluchistan an independent province. This decision led to polarization between political parties, notably PPP and Awami League. Mujeeb Ur Rehman's six points advocated for a weak central government, while East Pakistan sought separation. The mismanagement of federating units led to East Pakistan's secession. The 1973 constitution aimed at reconciliation, introducing a bicameral legislature, a strong Prime Minister, and a symbolic President. However, concerns remained regarding federal government overreach. Despite provisions for provincial autonomy and recognition of provincial languages, tensions persisted due to constitutional flaws.

Federalism and the 1973 Constitution's Amendments

The 1973 constitution initially followed a parliamentary structure with a bicameral legislature mirroring the British model of democracy. However, subsequent amendments by both civil and military authorities distorted this system. Bodies like the Council of Common Interests remained inactive for extended periods. While the constitution introduced democratic practices, the budgetary process resembled that of the Government of India Act of 1935. The current budget is split into charged (mandatory) and non-charged categories, with the center retaining 90% of revenue for items such as defense and debt servicing. Despite provisions for resource sharing, bodies like the Council of Common Interests have remained inactive, with the National Finance Commission struggling to enhance federation consolidation. Therefore, it's crucial to

examine the significant amendments made to the constitution. (Hanif & Khan, 2012, pp.23-26).

The Eighteenth Amendment stands out as a pivotal document within the institution, fundamentally altering the constitution's essence. In 1979, the Bhutto administration was ousted by the military, ushering in Martial Law which persisted until the implementation of the 18th amendment. This amendment aimed to grant the President authority to dismiss the Prime Minister and dissolve assemblies at will. Notably, governors were also endowed with similar powers within their respective regions. Consequently, the President gained the ability to appoint service chiefs and provincial governors, with the Prime Minister playing a nominal role. This shift marked a departure from the traditional parliamentary system towards a quasi-presidential model, centralizing power in the hands of the President and undermining the federal nature of the constitution.

The Thirteenth Amendment

This amendment was introduced by the Nawaz Sharif administration in 1997, reversed the 8th amendment, restoring the original federal parliamentary structure. This amendment restricted the President's powers, mandating adherence to the Prime Minister's advice. However, challenges reminiscent of the Bhutto era persisted, with federal units facing increased executive pressure.

Following a period of martial law in 2002, the Legal Framework Order (LFO) revived the Eighth Amendment under the Nawaz Sharif administration. This reinstated the President's authority to dissolve assemblies and appoint key officials, albeit with the Prime Minister's advice being non-binding. Additionally, the LFO safeguarded military orders and ordinances, restricting amendments without presidential consent. Notably, term limits for the Prime Minister were established, strengthening the President's position at the expense of federal decentralization. Shafqat and Wahlah, 2006: pp. 198-229.

Seventeenth Amendment

During the Musharraf era, an amendment was made to the constitution on December 31, 2003. This amendment altered Article 11 of the 1973 constitution, allowing an incumbent President to seek another term through a vote of confidence from the assembly instead of holding new elections. This

revitalized the office of the president, with the procedure for this election involving the Supreme Court. However, such centralized amendments continuously eroded the federal character of the constitution. Parliament became subordinate to the executive, resulting in minimal debate on key policies and undermining the original federalist principles of the constitution.

Eighteenth Amendment

The 8th and 17th amendments altered the balance of power within the constitution, favoring the president over parliamentary and federal features. This shift was due to increased discretionary powers granted to the president, giving the constitution a quasi-federal character. In a typical parliamentary democracy, the Prime Minister wields actual power as the people's representative, while the President serves as a symbolic head representing the state. However, following the amendments, this dynamic was reversed, with the President gaining more influence. The 18th amendment sought to rectify this imbalance and return the constitution to its original spirit (Waseem, 2010: p. 18. Khan, 2001: p. 100-110).

Challenges Facing the Federation of Pakistan

Pakistan is a diverse nation with various ethnicities and languages. Conflict between provinces, notably Punjab and its neighbors such as Sindh, Balochistan, and Khyber Pakhtunkhwa (KP), arises over resource distribution, political representation, and autonomy.

Long-standing grievances regarding political autonomy, economic marginalization, and alleged human rights violations fuel the insurgency in Balochistan. This insurgency threatens federal authority and stability. Disputes over financial allocation, national programs, and resource management persist between federal and provincial governments, complicating the delineation of authority and resources.

Criticism exists regarding the disproportionate influence of the federal government and Islamabad, potentially marginalizing provincial interests and exacerbating tensions between the center and periphery. Historical military involvement in politics occasionally strains federal-provincial relations and democratic governance, risking destabilization of the federal system. Economic inequalities among provinces, particularly between Sindh, Punjab, Balochistan, and KP, contribute to feelings of resentment and marginalization.

Conflicts over natural resource distribution, such as minerals and water, heighten tensions between the federal government and provinces, especially regarding dam construction and river water sharing. While the assimilation of FATA into KP in 2018 brought administrative and constitutional reforms, persistent challenges in security management and development remain.

Collaborative Strategies for Inclusive Governance Challenges

Addressing concerns about federal domination can be achieved by strengthening the authority of provincial and local governments, as specified by the 18th Amendment. Reducing grievances and fostering peace among provinces can be accomplished through implementing equitable revenue-sharing plans and resource allocation regulations. National cohesiveness can be fostered by inclusive policies that embrace Pakistan's diversity and overcome language and ethnic divisions. Addressing grievances and resolving conflicts among stakeholders require constructive political discourse and consensus-building.

Interprovincial disputes can be avoided and resolved through the establishment of impartial federal and provincial dispute settlement procedures. Paying for healthcare, education, infrastructure, and job creation initiatives can help to ensure that provinces have equal economic growth. The institutions of the federation can be strengthened by educating the populace about the advantages of federalism and encouraging citizen engagement in democratic processes.

Building confidence and trust is facilitated by maintaining openness, responsibility, and good governance principles at all governmental levels. Stability and unity must be preserved through the implementation of efficient security measures and cooperation between federal and provincial governments. It is possible to address common issues and advance peace and development inside the federation by interacting with regional partners and cultivating beneficial relationships.

Conclusion

Pakistan's federal system was adopted in 1947 due to an amalgamation of historical, geographical, social, and economic circumstances. The federal system, however, was unable to maintain true federalism, as the federal center continued to rule over the

provinces. As a result of centralization, there was little democratic participation, authoritarian governance, and disregard for provincial autonomy. The provinces were offended by this, which led to calls for more protection and autonomy.

Devoid of democracy or consent, centralization made the problem worse. Discontent in the provinces was exacerbated by authoritarian rule, which disregarded democratic principles and held erratic elections. Military operations strengthened centralization and anti-democratic tendencies by further undermining provincial powers. Provincial autonomy was intended to be addressed by the 1973 Constitution, but martial laws gave the military more authority and civilian governments frequently disregarded it.

Islam was frequently employed by the federal government to suppress provincial feelings, fostering unity while ignoring local issues. It suppressed oppositional voices and forced conformity by taking advantage of weak political forces. Federalism with provincial autonomy continues to be the most practical answer for political, economic, and administrative difficulties in Pakistan, given its various history and identities.

The only viable option for reconciling political, economic, and administrative challenges in Pakistan is federalism with autonomy to the provinces. Given the nation's complex political history, regional and ethnic diversity, and highly developed sense of regional consciousness and identity, progression towards democracy, free and fair elections, decentralization and regional autonomy is required. Ultimately, prosperous and self-sufficient provinces are the foundation of a robust Pakistan.

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