

## **Federalism and Provincial Autonomy in Pakistan: Challenges and Prospects**

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### **Abstract**

*Living in a Federal society means that you have the right to run your own affairs, control your recourses, shape your own society and government and the most important is to maintain your own identity. In 1947 when Pakistan came into being it was obvious that it would be a federal country with two wings far away from each other's, secondly it has a diverse population even now. Throughout Pakistan's history there was a struggle between various groups for provincial autonomy. In this paper an attempt is made to highlight this politics and to analyze that how different actors struggled over the issue of provincial autonomy.*

### **Key Words**

Federalism, Provincial Autonomy, Centralization, Bureaucratic control, Military intervention, Constitutional Amendment

### **Introduction**

Around the world Twenty Eight countries are federal. Each of them is different from others. But the common in them is that all of them are multi-cultural societies, spreads over a vast territory and mostly have diverse population. It is only the constitution that defines the duties and rights of the Center and the Units. A Federation is defined by The dictionary of Modern politics, as, "federalism as a type of government in which the constitution divide the power between various authorities in a fashion that each is given responsibility for a particular array of functions which then set up and maintains their own institutions to perform those

functions”<sup>1</sup>. It is also defined as “It is an attempt to accommodate divergent regional ethnic and linguistic identities and interests groups in a political union”<sup>2</sup>.

In each federation different ethnic group form a political union to get their interests and in this respect they bargain over their autonomy and sovereignty. These interest includes political, economic and most of the time security of their respective territory.

Pakistan was born as a federal state with five major and many small ethnic groups. All of the ethnic groups except except political leaders from Punjab and the Indian migrants were in favor of greater provincial autonomy while Muslim League leadership was in favor of strong center at the expense of provincial autonomy. Punjab was dominating the bureaucracy and for the Governor General these were the efficient people to run the state. It is quite evident that constitutional development and political development goes side by side. In Pakistan, the provinces are struggling for their right and share in the national wealth and the center is trying to keep itself as strong as possible and control the provincial resources. Amidst this tug of war legislation is being continuously enacted.

### **The Federal Theory:**

Federalism is not only restricted to the Federal state it is rather an idea of legitimacy that balance governance between different tiers of governments. It is a key to maintain diversity in multi ethnic and multi linguistic societies.<sup>3</sup> The dictionary of Modern politics, describes, “federalism as a type of government in which the constitution divide the power between various authorities in a fashion that each is given responsibility for a particular array of functions which then set up and maintains their own institutions to perform those functions”.<sup>4</sup> According to Dr. Muntazra Nazir “It is an attempt to accommodate divergent regional ethnic and linguistic identities and interests groups in a political union”<sup>5</sup>. Daniel J. Elazar says that “[federation is] a polity, constituent units both govern themselves and share a

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<sup>1</sup>A dictionary of Modern Politics, 3<sup>rd</sup> edition London, Europa publication, 2002. P.p 78

<sup>2</sup>Nazir, Muntazra. *The problems and issues of federalism in Pakistan*, university of Punjab. P.p 110

<sup>3</sup> Blindenbacher, R. J., Blindenbacher, R., & Koller, A. *Federalism in a Changing World: Learning from Each Other*. McGill-Queen's Press-MQUP (Edi 2003).

<sup>4</sup> A dictionary of Modern Politics, 3<sup>rd</sup> edition London, Europa publication, 2002. Pp. 78

<sup>5</sup>Nazir, Muntazra. *The problems and issues of federalism in Pakistan*, university of Punjab. Pp. 110

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common constitutional government of the whole powers are delegated by the former to the people of all the units".<sup>6</sup>

Explaining the federal theory in the light of the above definitions, it can be established that a political unit with diverse ethnic and national background is governed in a manner that conflict is minimized and each group is given a proper opportunity to govern and develop itself. To make the institutional arrangements some mechanisms are adopted which is delicately explained in a written constitution, the legislatures' 'Bible'<sup>7</sup>. Many states are struggling with the problem of centralization vs the decentralization of authority, and are trying to maintain the right balance between central authority and provincial autonomy. Excessive autonomy can lead to inefficiency and over centralization can undermine the regional government. The triumph of federalism is greatly reliant on the dialogue culture, faith and corporation among the leadership in a country. If personal interests are prioritized over the national interest it may lead to inefficient governance. To sum up, federalism is not a one size fits all situation, it is rather an attempt of balancing the unity in diversity by managing the conflict situation and creates a win-win environment.

Louis-Philippe Pigeon, in his classic work titled Meaning of the Provincial Autonomy defined the provincial autonomy 'as the ability of a province in governing certain policy areas without the interference of central government a federal polity'<sup>8</sup>. Provincial Autonomy is based on divided sovereignty where the constitution decides the power of each unit. According to the judicial interpretations of the concept it is not just administrative authorities but it also hold a legislative position as well. Along with that the matter of national identity is very important. Robin, L. Edward and Feeley, M. Malcolm, explains federalism in terms of national identity and are of the view that "Federalism must be understood as a matter of political identity".<sup>9</sup> The federalism encourages the maintenance of identity and provide opportunities to the ethnic and linguistic groups to strengthen its culture and history.

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<sup>6</sup>Elazar,J,Daniel.*international and comparative federalism*,political science and politics,vol. 26.No 2 June 1993. Pp. 191-92

<sup>7</sup> Rabbani, Mian Raza. *A biography of Pakistani federalism : unity in diversity* . Islamabad: Leo Books, 2011.

<sup>8</sup> Pigeon, L. P. The meaning of provincial autonomy. Can. B. Rev., 29, 1126. Quebec, Canada.1951

<sup>9</sup> Robin,L.Edward and Feeley,M. Macolm, federalism and interpretation.Publius,vol.38, No.2(spring 2008)

### **The Politics of Provincial Autonomy in Pakistan:**

Prior to the independence the local governance system was established under the 1919 Act known as Montague-Chelmsford reforms. The act established a 'diarchy' which was an attempt to bring the local to the government 'gradually'<sup>10</sup>. It gave some powers to the provincial government and some subject were handed over to the provincial governments only. The act was followed by the Indian Act of 1935 which is later on established as the constitutional foundation of both India and Pakistan. In the 1930s the political scenario was changing and with the rise of Hitler Europe was sensing the 2<sup>nd</sup> world war. In this situation it was hard for the British to afford any resistance from it largest colony. Secondly, prior to that, a promise was made that if the British received the Indian support during WWI, they will be rewarded. The Act of 1919 and 1935 are parts of the same series.

The Indian Act of 1935 was drafted in a design where Central government is kept stronger than the provincial governments. The Act was a comprehensive document contained 321 sections and two schedules. The Act kept the center as strong as possible. India was reconstituted on federal ground, but the constitution was unitary in nature. The provinces were given autonomy but their areas of legislation were limited. The provinces have to work under the supervision of Governor General. There were three lists of subjects federal, provincial and concurrent. The federal list was the area of central government, provincial belongs to provinces and on concurrent both could legislate. In case of any contradiction the central authority was given priority<sup>11</sup>. Governor General was the center of authority. He was the executive chief, the commander of all Indian forces and In-charge of foreign affairs. The Governor General<sup>12</sup>.also had the authority to make the law through ordinances and he was not answerable to the masses.

In the 1940s the aims and objectives of All India Muslim League changed and a major paradigm shift is seen. The 1940 Resolution which initially demanded for greater provincial autonomy and share in governance for the Muslims by establishing regional governments under the Muslims in north western India to a separate state for the Muslims in 1945. During the period Muhammad Ali Jinnah repeatedly supported the idea of federalism and in 1945 he said that, "The theory of Pakistan guarantees that federal unit of the national government would have all the autonomy that you will find in the constitution of United States of America, Canada

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<sup>10</sup> Baxter, Craig, *Constitution making: the development of Federalism in Pakistan*, in Asian Survey Vol.14, No. 12(Dec..1974)University of California Press. 1974. p.p 1075

<sup>11</sup> Khan,Hamid. *Constitutional and Political History of Pakistan*(second Edition), OUP, Karachi,2009. P.p 21-22

And. The Government of India Act, Government of India Press, New Delhi, 1943

<sup>12</sup> Ibid.

and Australia. In but certain vital powers will remain vested the central government such as monetary system, National defense and federal responsibilities".<sup>13</sup>

With the death of M.A Jinnah, a new phase of political struggle started in Pakistan. The influx of bureaucracy to power corridors doubled under the leadership of Liaquat Ali Khan and Governor General Ghulam Muhammad. The murder of Liaquat Ali Khan made it easier for Ghulam Muhammad to control the state. Muhammad Ali Bogra, a seasonal bureaucrat was positioned as Prime Minister and the nexus of 'Gang of Four' further centralized the authority. Parallel to the politics at the center in Bengal the Bangla National Language movement was flourishing.<sup>14</sup> The movement started as a result of the National language issue. The relation between the central government and the provincial leadership grew worse. The quest for Bengali national identity flamed with the killing of Dacca University students' protesting against making Urdu the national language for the country in 1952. The question of constitution remained unaddressed on ground. Constituent committees were dissolved at a stage when they were about to submit their proposals. The centralist tendencies increased and the office of the governor General is strengthened.

In 1954 General Ayub Khan is appointed as a cabinet member in the cabinet of talent. It was the first time that a serving general was appointed as a minister which augmented the voice of bureaucrats in Pakistani politics. To curtail the Bengali majority a One Unit Scheme was introduced and the Politicians, having the centralist approach, supported the idea of 'One Unit'. Among them Begum Jehanara Shehnawaz Khan and Malik Feroz Khan Noon were the leading voices. The resistance mainly came from Sindh, NWFP, Baluchistan and the Bahawalpur state. To implement the idea a great number of provincial assemblies were dissolved. To counter the pressure the government arrested many nationalist leaders and journalist and even banned prominent newspapers<sup>15</sup>.

In the late 1950s, National Awami Party emerged on the political scene of Pakistan. The party was socialist in nature while at the same time it had a socialist orientation as well. The party was focused mostly on peasantry rights and more

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<sup>13</sup> Naazir, Muntazra, *The problems and issues of federalism in Pakistan*, University of Punjab available online via [pu.edu.pk/images/journal/studies/PDF.../Federalism%20-Muntazra-7.pdf](http://pu.edu.pk/images/journal/studies/PDF.../Federalism%20-Muntazra-7.pdf). p.p 110-111

<sup>14</sup> . Waheeduzzaman, M, (Manik), *The forgotten harbinger of the language movement. The Daily Star internet version last visited 30/07/2014* <http://archive.thedailystar.net/newDesign/news-details.php?nid=127448>

<sup>15</sup> Flashback: One Unit, a Dark Chapter in Our History," *Dawn*, October 19, 2011, <https://www.dawn.com/news/666670/flashback-one-unit-a-dark-chapter-in-our-history>.

regional autonomy. During his life it struggled for parliamentary democracy, regional autonomy and advocated leftist ideology. It struggled against the One Unit Scheme which was reverted in 1969 and also raised its voice against the Ayob Martial Law.<sup>16</sup>

Ayob's martial law ended with another martial in the country. However, Yahya Khan, the Chief Martial Administrator, took some positive steps and hold general elections in 1970. The election results birthed a political crisis which ended in the disintegration of Pakistan, Bangladesh and Pakistan. In the 'new Pakistan' Z.A Bhutto became the civilian martial law administrator and he formed a committee to draft the constitution for Pakistan. On December, 30 the government moved a constitutional Bill in the National Assembly. This was not accepted to the opposition parties mainly Islamists and nationalists. Under the leadership of Wali Khan they formed UDF (United Democratic Front) on 13th March 1973. Their demands were about making constitution more Islamic and more autonomous in respect of provinces. On 9th April Bhutto met the UDF leaders and agreed on their terms and promised that their demands will be met in the constitution. On April 10th the assembly passed the Bill and on 12th the then acting President Zulfikar Ali Bhutto gave his approval to it. This constitution came in practice from 14th August, 1973. The issue of regional autonomy was addressed in terms of governance however the economic centralization maintained.

Soon the constitutional amendments are followed and under third amendment to counter his opponents. Under the new law he barred the courts in terms of granting the bail before arrest. He targeted his opponents particularly National Awami Party and banned its political activities. Similarly in response to the election crisis of 1977, Mr. Bhutto triggered the 7<sup>th</sup> amendment which enabled the Prime Minister to seek approval from the masses in shape of referendum.<sup>17</sup>

In 1977 General Zia Ul Haq took the advantage pf the situation and imposed Martial Law. With him a new era of cartelization started. He banned all political activates until the 'dust' get settled. Along with that he started the 'Islamization' policy to cover his illegal moves. Luck favored him and the international environment gave him advantage. The Russian invasion of Afghanistan and the US interests in the region fueled his strength. At the domestic level, a crisis erupted in Sindh, which was a possible threat to his regime. The

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<sup>16</sup> Rasheeduzaman, *The National Awami Party of Pakistan: Leftist Politics in Crisis*, Pacific Affairs, Vol. 43, No. 3 (Autumn, 1970), pp. 394-409.  
<http://www.jstor.org/stable/2754219> .

<sup>17</sup> The Gazette of Pakistan, 1977  
[https://www.senate.gov.pk/uploads/documents/1659337932\\_792.pdf](https://www.senate.gov.pk/uploads/documents/1659337932_792.pdf)  
 ISSN: 2789-1038

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Sindhis felt deprived in their share in the power corridors<sup>18</sup>. Furthermore opposition parties made a union called Movement for the Restoration of Democracy popularly known as MRD which was composed of nine regional and national parties. The struggle of Sindis reached to its climax when New Sindi National Front was formed. Its aim was to unite all Sindis (Sindis and Muhajirs). MRD tried to cash the opportunity to remove Zia from power and made a miscalculated call for joining the movement but the other three provinces did not respond well and the movement collapsed.<sup>19</sup>

The MRD movement was a real threat to Zia regime. He did a referendum and the election commission declared him the President of Pkistan. In 1985 he became the president and to strengthen his position he passed the 8<sup>th</sup> amendment which is the most centralist amendment in nature. Similarly he jailed the MRD leaders and conducted a non-party based elections. The Presidency was strengthened under 58(2)(B), which empowered the President to dissolve the National Assembly any time, and the same powers were given to governors in provinces under article 112.

After the death of Zia ul Haq fresh elections were held in Pakistan. In which PPP won most of the seats, but still it did not have clear majority. So they made a coalition with MQM which won 13 seats. In the provincial elections again in NWFP and Baluchistan PPP has very less representation and IJI won majority seats there.

After winning the elections, there were many issues to be dealt with. These include issue of provincial autonomy, Kashmir issue, Afghan problem and some economic issues. According to 1973's constitution a Council of Common Interests would be formed which will decide matters of revenue distribution among provinces and in case of any problem it can also access a joint session of National Assembly and Senate. Benazir never let it happen in his short term of government, because in a joint session of assembly PPP would be not in majority. During her elections campaign she was favoring provincial autonomy but coming in to power she changed her mind and didn't let it happen<sup>20</sup>.

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<sup>18</sup> Sindi felt insecure and deprived because Sindi's representation in Bureaucracy was very low as compare to *muhajirs*, secondly, there were socio economic differences between Sindis and muhajir and Sind was less developed as compare to development in Punjab.

<sup>19</sup> Rakisits, C.G.P, Centre-Province Relations in Pakistan Under President Zia: The Government's and the Opposition's Approaches, Pacific Affairs, Vol. 61, No. 1 (Spring, 1988), University of British Columbia. 1988. p.p 85-86

<sup>20</sup> Van, Heugten, Jan and Immig, Olivier. *A taste of Power: the uneasy reign of Benazir Bhutto 1988-1990*, Stichting MERA Occasional Paper No. 13 (April 1992). P.p 6

The centralist tendency once again emerged with the Musharraf's Martial law and the 17<sup>th</sup> amendment. He restored all of the acts of Zia which were reversed either by Benazir's government or by Nawaz governments. Throughout the 1990s the Presidents never hesitated in using their powers under 58(2)(B). The 2008's elections and the new political leadership brought hope in terms of regional autonomy and democracy. In 2010 the 18<sup>th</sup> amendment was passed, and 102 articles of the 1973's constitution are amended. It promised more regional autonomy and also strengthened council of common council. It abolished the concurrent list of subjects and devolved seventeen ministries to the provinces. It also defined the High Treason under article 06 and blocked the way for any martial law in future. Similarly, it also reduced the powers of the President, abolished 58(2)(B) and restored the parliamentary democracy. It enhanced the regional autonomy over the natural resources by amending article 172, and empower the provinces.

Financial autonomy is still one of the biggest challenge. The Fourth Schedule grants control over taxation to the center, which make the provinces totally dependent upon the center. Despite the 1973's constitution provision of political autonomy the actual financial framework is centralized in nature. Most of the revenue is collected by the central government. It collects 91% of the total tax collected, while on the other hand provinces collect less than 9%. It makes the regions dependent upon the central authorities for fiscal issues.<sup>21</sup> According to the NFC awards provinces reliance upon central government is 84% of its expenditure. The political and bureaucratic elites at the center influence the fiscal policies and has maintained the centralization of fiscal policies.

The political decentralization system of Pakistan operates through three structures including institutions and laws and administrative procedures to determine government authority allocation among different regional bodies. The Pakistan Constitution establishes federal governance that splits power into three segments: federal, provincial and local. Article 52 states that the National Assembly makes up a five-year term before an early dissolution and Article 90 establishes a Prime Minister as the top state executive. Article 107 determines that each Provincial Assembly works for a five-year period while Article 129 allows the Chief Minister to administer executive powers together with his cabinet ministers. According to Article 140(A)(1) local governments receive their foundational framework through which elections occur every four years as laid out by provincial local government acts (Sindh Local Government Act 2013 and Baluchistan Local Government Act 2010 and Punjab Local Government Act 2013 and Khyber Pakhtunkhwa Local Government Act 2013).

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<sup>21</sup> Fayaz H. T, & Agha A. N., *Political decentralization, fiscal centralization, and its consequences in case of Pakistan*. Cogent Social Sciences (2021), <https://doi.org/10.1080/23311886.2021.1924949>



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The assessment of legislative decentralization depends on how much control policies maintain over programs in agriculture, citizenship and immigration, culture, defense, economic activities, education, healthcare, law enforcement, natural resources and public transport. The extent of decentralized power oversight in each sector between federal and provincial governments is classified in research by Dardanelli.<sup>22</sup> The process of administrative decentralization shares identical procedures by evaluating how much power subnational governments possess to carry out policy implementations in these sectors. The Level of administration and governance control enjoyed by provinces along with local governments is explored through research conducted by Dardanelli & Mueller<sup>23</sup>, and Kaiser & Vogel. The constitutional decentralization of Pakistan's government becomes more evident through these measures but different levels of decentralized control between sectors affects the overall effectiveness of federalism nationally.

Interest groups serve as the key driving force behind Pakistan's unbalanced system of financial institutions along with its political structures. Economic and political structures receive influence from direct as well as indirect elites who each follow unique roles. Elite groups such as landholding elites and religious figures along with bureaucratic officials use election backing to support political actors for benefit during electoral periods. The military together with business sector and media institutions utilize rigging and financial backing and media manipulation to support their favored political groups in electoral processes. Politicians who form close associations with elite groups have gained collective power thanks to which they can influence both fiscal and economic policies to increase centralized fiscal control within their nation.

Pakistan received its governance model from British rule but adopted centralized control patterns after independence which were mostly supervised by feudal landlords along with clerics and the military and professionals and business leaders and media representatives. The combination of military and civilian authoritarian regimes that receives support from feudal classes and religious groups generates both institutional inefficiencies as well as political fragmentation. Feudal elites in rural regions have increased power to manipulate electoral choices through their ties with local caste members and cultural traditions and family relationships known as Barbarism. Political figures in both provinces of Sindh and Baluchistan

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<sup>22</sup> Dardanelli, P., & Mueller, S. (2019). *Dynamic d(e)centralization in Switzerland, 1848–2010. Publius. The Journal of Federalism*, 49(1), Pp.138–165. <https://doi.org/10.1093/publius/pjx056>

<sup>23</sup> Dardanelli, P., Kincaid, J., Fenna, A., Kaiser, A., Lecours, A., Singh, A. K., Mueller, S., & Vogel, S. *Dynamic de/centralization in federations: Comparative conclusions. Publius. The Journal of Federalism*, 49(1), 194–219. 2019. <https://doi.org/10.1093/publius/pjy>

gain their electoral support through the power of landlords yet political figures in Punjab gain support by building caste-based alliances. The politics of Khyber Pakhtunkhwa mainly depends on existing religious sects and tribal groupings to determine leadership positions.

Through their assigned position the bureaucratic elite support particular politicians at the district level by reinforcing political patronage networks. Law enforcement personnel are deployed by manipulators to restrain opposition candidates while obstructing political rallies during electoral processes. Successful candidates commonly give rewarding bureaucrats with desired assignments and faster career promotion and administrative posting exemptions which creates bureaucratic dependence on politics.<sup>24</sup> The politicization process creates opportunities for authorities to bypass institutional safeguards which grants them latitude to practice corruption through rent-seeking activity.

The Business elites establish their political dominance through handful financial support to political parties. Organizations composed of well-to-do business people allocate their monetary backing to partisan protest groups to achieve desired economic policy outcomes that benefit their interests. Their financial support secures them major power to influence tax policies together with trade regulations and economic governance and thus enables them to obtain exemptions and concessions as well as incentives with detrimental effects on public finances. Public funds suffer annual financial losses due to Statutory Regulatory Order (SRO) 1125 (I)/2011 because it grants tax benefits to industrialists and traders as well as media houses

### **Conclusion:**

In conclusion, the politics of regional autonomy is a continuous struggle among various forces, shaped by historical legacies, bureaucratic elites, politicians and constitutional developments. Since its creation, Pakistan is struggling with balances the centralized authority and provincial autonomy, often resulting in tension between ethnic and regional groups. The legislations under the British rule laid the foundations of centralized authority, which is reinforced by successive government through Martial law and political maundering. Although some progress regarding provincial autonomy is made under 18<sup>th</sup> amendment and some powers are devolved to the provinces, financial centralization is still a bigger challenge which make the provinces more dependent upon the central government. To add with, the persistence of elite influence, military interventions and bureaucratic control has further complicated the issue of provincial autonomy.

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<sup>24</sup> Kardar, S. *Elite living on borrowed time; former governor State Bank of Pakistan*. Dawn New Paper, December 23, 2014.

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