

Federalism in Pakistan, Current Developments

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Abstract

Purpose of this study is to elaborate the political issues and challenges faces by the federation of Pakistan during and after the Gen. Pervez Musharraf government. In this paper effort is made to discuss those issues on the biases of which politics of federalism started in the country. Pinching problems that caused disintegration to Pakistan are also discussed. Those issues are also discussed in details which are a constant threat to the “new federation of Pakistan”. Authors also focus on the 2008 elections and its consequences on Pakistan politics. All the results of this research are proved via review of the previous literature. Researchers have proved that as Pakistan has a diversified culture so federalism is best suited for its political structure. Researchers have also discussed few suggestive solutions for better bureaucracy.

Keywords: Politics, Federalism, Regime

In 2008 elections PPP emerged as the majority party and succeeded in framing a coalition government. Before elections it publicized its manifesto and proclaimed to provide more provincial autonomy to the provinces, decentralization of power and to boost up economic conditions of the people of all provinces. After assuming power it formed a parliamentary committee on constitutional reforms to prepare a constitutional draft for the decentralization of powers according to the charter of democracy. In the committee all major political parties were given representation.

Charter of Democracy:

Exiled leaders of PPP and PML-N signed charter of democracy in London on May 14, 2006. Two former prime minister of Pakistan Benazir Bhutto and Nawaz Sharif along with the leadership of other political parties signed a road map for smooth and steady working of democracy in the state that was called charter of democracy. Through this charter a wide range of coalition was made by the political parties of Pakistan for the restoration of civilian rule. Charter was comprised on wide range of issues and constitutional problems were discussed in this document. The charter discussed the issue of restoration of constitution in its

original form i.e. as in the pre Musharraf regime under Nawaz Sharif government, end of presidential powers of dissolving National Assembly, his powers of appointment of governors, army chief and chief justice of Supreme Court and High Courts of Pakistan.

It also demanded to eliminate of the concurrent list and to give representation to the minorities in legislative bodies. Assimilation of FATA into NWFP; development of an enlightened Baluchistan to establish a truth and reconciliation commission and national democracy commission, To obliterate the restriction of becoming prime minister for the third time, to make MI, ISI and other intelligence agencies accountably to the representative government “Removing indemnities introduce by military government” (Daily Times, Islamabad, May 14, 2006). Appointment of Supreme Court and High Court’s judges through a commission headed by that chief justice who had taken oath under the constitution of Pakistan not under the PCO. It stated that no judge shall take oath under any provisional constitutional order or any other oath that is inconsistent to exact language of the original oath prescribed in 1973 constitution. Burning issues of provincial autonomy and process of decentralization was also discussed in detail and suggested transferring those departments to the provinces which are stated under concurrent list in the constitution. It also proposed to create check and balance in state institutions as well as in political parties (Talbot, Pakistan: A Modern History, 2009). President Musharraf remarked on the character in this way, it is the political tactic of both the political parties. He considered it the game of words utilize the mass mobilization against his regime. Moreover he called it a temporary documentary paper (Leghari, 2008).

Return of the Leadership and Death of Benazir Bhutto

Musharraf lost his grip over political scenario till 2007 due to his own blunders and for piling up all the powers in his own hand. Lawyer’s movement was also defaming Musharraf. Pakistan’s role in the war of terrorism as a front line ally was also proved very harmful for the security of the state. In the beginning of 2007 Musharraf declared it impossible for both Benazir and Nawaz Sharif coming to Pakistan and play their active role in Pakistani politics but due to ever increasing pressure by the western countries and America Musharraf was forced to change his policy and to issue National Reconciliation ordinance (NRO). This was issued according to the wishes of west to introduce moderate political parties against the religious Islamic parties in Pakistan’s politics. National Reconciliation order set forth road for the return of two exiled leaders in Pakistan. Certainly Washington and Riyadh both played their part and both leaders came to Pakistan with the difference of one month. Earlier Nawaz Sharif tried to return to the country but was failed and returned to Jeddah by the state forces (Leghari, 2008).

Benazir Bhutto received a very warm welcome on her return to Karachi; she was greeted by hundreds of thousands of people at Karachi airport. According to media reports this time more people greeted her on her return to Karachi than her historic return to Lahore in 1986. When she was leading the procession towards Quaid-e-Azam’s mausoleum, where she was going to address the rally, near Karsaaz a suicide bomber attacked the procession. 179 workers of PPP were killed and more than 600 injured in this attack. Benazir blamed her foes in army and intelligence agencies for this brutal act (Talbot, 2009). About the masses which were gathered in Karachi to receive her, she said “it was truly a caravan of democracy, a way for astounding three million Pakistani citizens including huge numbers of women and children to come out and express their support for the PPP Music pulsated from boom boxes, blasting the

traditional anthems of thirty years if Peoples Party campaigns interspersed with the latest Pakistani pop music. Supporters danced around the vehicles, throwing rose petals and cheering my return and the return of democracy. People were hanging on from the trees and from telephone and telegraph poles, attempting to catch a glimpse of me and other PPP leaders who stood on the flat bed truck” (Talbot, 2009) When Musharraf imposed emergency in the country on November 3, 2007 the intensity of PPP’s reaction was very less than PML-N. PPP was committed to contest the election instead of hardships but PML-N was looking in hesitation to contest or boycott because other parties of All Parties Democratic Alliance (APDM) with whom Nawaz Sharif had made alliance in London In July 2007 announced to boycott the election. According to Jamat-e-Islami and Tehreek-e-Insaaf (the member parties of APDM) to fought the election mean to provide the legitimacy to the Musharraf rule. Leaders of the lawyer’s movement also had the same views (Kamran, 2009, p.176).

When political parties were indulge in preparing the plans for new election and political process was at its peak which was a positive sign for the federalism in Pakistan a sad incident happened which shack the foundation of federation. This was the dangerous incidence of Benazir Bhutto’s assassination on December 27, 2007 a few days before the upcoming election, at Liaqat Bagh Rawalpindi when she was about to return after addressing an election rally. She was attacked by a suicide and her motor car was also blasted by a suicide bomb attack. This was the same city where her father was hanged by another military ruler and first Prime Minister of Pakistan was also shot dead in 1951 in the same Bagh. (Husain, 2011).

The death of Benazir Bhutto stunned the people of Pakistan and shocked the rest of the world. After her death next three days were very uncertain about the fate of federation of Pakistan. Violence started all over the country. Especially in Sindh anarchy spread throughout the province which raised the tensions between Punjab and Sindh because Sindhi people commonly associate Punjab with army. This was the second time when a popular leader of Sindh was killed in the rule of army. Some people thought it as the act of secret agencies. So the grievances against army and Punjabi establishment were very high in Sindh. Dangers of Pakistan’s disintegration on ethnic lines were exaggerated. Violence and anarchy resulted in casualties and millions of loss of property. “Pakistan Na Khappay” (which means we need Pakistan no more) was raised by some Sindhis at her funeral near her grave but at this moment her husband Asif Ali Zardari played a positive role and in reply he raised the slogan of “Pakistan Khappay”(we need Pakistan) which normalized the situation in Sindh to some extent. She was buried in the graveyard of Garhi Khuda Bakhsh near the tomb of her late father Zulfiqar Ali Bhutto. Her death also proved a fatal jolt for Pakistan’s economy and its image in outer world. Scotland Yard Police officials were sent to uncover the mystery of the death of Benazir Bhutto. They pointed out towards Al-Qaida and Taliban of Waziristan. Election commissioner of Pakistan postponed the elections till February 18, 2008. PPP decided to contest the elections and it also encouraged PML-N to take part in this political process. According to the will of the Benazir Bhutto leadership of PPP came in the hands of her son Bilawal Bhutto and her husband Asif Ali Zardari. Uncertainly prevailed all over Pakistan about the new elections but political parties forced Musharraf’s government to held elections. PPP was focusing on Benazir’s philosophy that “democracy is the best revenge” which was taken by PPP after the death of the daughter of the east. (Talbot, 2009).

A Shift in Paradigm

In the presence of uncertainty elections were held according to scheduled time in 2008 after the assassination of Benazir Bhutto. PPP blamed government for its pre pole rigging in the form of filing cases against PPP workers for violence after the death of Benazir Bhutto. Hoardings banners and printing handouts in favor of PML-Q at the government expenses, appointment of Muhammad Main Somroo as care taker Prime Minister after the expiry of terms of Assemblies, using threats against the PPP and PML-N activist and support of PML-Q by the district Nazims, were the charges which were raised by the political parties against Musharraf's government. People did not believe in the impartiality of central and provincial care taker governments. Europeans Union's election delegates reported pre poll rigging on massive scale. Instead of all these PPP leaders blamed PML-Q for killing of Benazir Bhutto. Economic scenario all over the world and especially in Pakistan was also blurred. PPP and PML-N and other opposition parties blamed PML-Q for shortage of commodities, rising oil and gas prices and shortage of electricity. PML-Q desperation was increased due to his former Prime Minister Shoukat Aziz who left for London on January 6, 2008 and did not take any interest in the election campaign (Elections Report Interparliamentary Union, 2008).

PPP was running its election campaign on the old slogans of Bhutto Roti, Kapra or Makan, focusing unemployment issues where PML-N was raising issues for universal education in the country, restoration of judiciary and acts of Pervez Musharraf against democracy, judiciary, Laal Masjid and his role in war against terrorism which created insecurity in Pakistan. Musharraf lost his popularity so much that the king's party also maintained a distance from him. PPP leaders also try to mobilize the sympathies of voters by displaying Benazir's posters and play cards having saying of Benazir's last address. Sentiment in Sindh for PPP was so polarized that Sindhi people said "vote Bhutto Jo Karza" voting for Bhutto is a debt which we have to pay. (Mushtaq, 2010).

In these circumstances when polling was held for election on scheduled date the PPP and PML-N turned out as victorious with 113 and 84 seats out of 342 of National Assembly respectively. Situation in the most influential; province of Pakistan Punjab was more suitable for PML-N where party won 102 seats and PPP 78 while PML-Q 66 and PML-Q lost the popularity which it gained in 2002 elections. MMA also lost his popularity and captured only 6 seats in National Assembly. While ANP once again gained votes by opposing Musharraf policies against war in terrorism and impressing Pashtun voters. Before elections ANP also raised issue of identity by raising voice for renaming NWFP on ethnic grounds which also favored it in elections. PPP and PML-N signed Bhorban declaration to from the next government (Mushtaq, 2010). After the elections a coalition government was formed by the PPP, ANP, MQM and PML. Syed Yousaf Raza Gilani took oath as prime minister of Pakistan on March 24, 2008 in a ceremony which was boycotted by many known political personalities like Asif Zardari, Asfand Yar Wali, Nawaz Sharif and Maulana Fazal-ur-Rehman. Their boycott indicated the future problems which the federalism of Pakistan was going to face in coming years. In Punjab PPP and PML-N formed coalition government while in NWFP ANP and PPP, in Sindh PPP and MQM and in Baluchistan PPP and all other regional and religious parties formed a coalition government. (Jung, Multan, March25, 2008).

Results of General Elections 2008

Political Party	National	Sindh Assembly	Khyber PK Assembly	Balochistan Assembly	Punjab Assembly
PPP	122	93	30	12	107
PML-N	91	0	9	1	170
PML-Q	54	9	6	18	84
MQM	25	51	0	0	0
ANP	13	2	48	4	4
MMA	7	0	14	10	2
PML-F	5	8	0	0	3
PPP-S	1	0	6	0	0
Others	20	3	11	20	4

Source: Election Commission of Pakistan

A glance over the election results indicates the trends in the federalism of Pakistan after 2002 election. It is clear that due to Musharraf's policies of centralization and his active role in war against terrorism federalism in Pakistan has to face many problems at national and international level. Regional political parties once again got much support from the voters in the elections of 2008. People casted their votes in favor of ethnic based parties like MQM and ANP. Religious political parties were divided on different issues and these also lost their popularity in NWFP and Baluchistan which is very dangerous for federation of Pakistan (The Dawn, Lahore, August 19, 2008). Pervez Musharraf lost much of his support in politicians after becoming unpopular in masses. On the other side lawyers movement was also reducing his popularity. PPP and PML-N were planning for the impeachment of president. Different Provincial Assemblies passed resolutions against Musharraf and demanded his resignation. Post 2008 elections scenario was not in favor of Pervez Musharraf. He was losing the support of king's party's politicians and MNAs day by day that is why he resigned from the office on august 18, 2008 in a televised speech. Almost 9 year ago, when he was saying on television that army has moved in and now he was delivering his news of quitting from the office(The Nation, March 25, 2008). After Musharraf's resignation judges issue became bone of contention between PML-N and PPP and PML-N separated from the coalition in central government. Now PML-N was stressing PPP for bringing non political personality for the post of the president but Asif Ali Zardari did not trust the Nawaz Sharif. Asif Ali Zardari himself came out as candidate of PPP for presidential election against PML-Q Mushahid Hussian Sayed and PML-N Saeed-uz-Zaman Siddique and won the presidential elections with an over whelming majority.

Early Rift in the Coalition

Before the elections of 2008 all major political parties were working on one point agenda that was the removal of Pervez Musharraf from the power that is why federalism in Pakistan was witnessing mutual cooperation and harmony of political parties after a long time that is why after the general elections 2008 a coalition government of PPP and PML-N, ANP, MQM and JUI (F) was established in the center and Sayed Yousaf Raza Gilani became Prime Minister of Pakistan. In the province of Punjab PML-N and PPP formed a coalition government

while in Sindh PPP and MQM were major allies. In Khyber Pakhtun Khwa ANP and PPP formed the new government and in Baluchistan as usual all political groups became the part of new provincial government. After taking the oath the Prime Minister Yousaf Raza Gillani in his very first speech said that: "the federal government will prefer to work with coordination with the provincial governments rather than agitation. The center will also carry forward their all planning and decisions through consensus". In Punjab a coalition government of PPP and PML-N was formed and younger brother of Main Nawaz Sharif named Shebaz Sharif became Chief Minister. However in early 2009 Shehbaz Sharif who has taken the oath as the Chief Minister of the province of Punjab on June 8, 2008 declared ineligible to contest election by a three member bench of Supreme Court headed by Justice Moosa K. Leghari. The president of Pakistan promulgated Governor Rule in the province and it looked that election will be held for new Chief Minister of Punjab again. Enforcement of Governor Rule intensified the relations of the two coalition partners at provincial and central level. Federal government took this issue to Supreme Court for reconsideration of the issue and in March 2009 the decision was given by the Supreme Court in favor of Shehbaz Sharif and he was reappointed again as Chief Minister of Punjab. The promulgated Governor Rule was lasted until March 31, 2009 when a five member larger bench of the Supreme Court granted stay order on the earlier decision of the apex court in which Nawaz Sharif and Shehbaz Sharif were disqualified from holding the public office. (The Dawn. February 26, 2009). It normalized the situation at political front to some extent but later on PML-N separated from the cabinet.

Reinstatement of the Judges

After the establishment of a democratic rule in the state in 2008 an order was passed by the Prime Minister Yousaf Raza Gillani to release the Chief Justice and other judges from house arrest. He also requested in his first address to stop agitation on the issue of judiciary. But the real issue was the restoration of the judges. In March 2008 a six point Muree Declaration was signed between PML (N) and PPP to restore the judges. However the federal government failed to implement this decision within the framework and time limit. Stance of the government was that it would be unconstitutional to dismiss an existing Chief Justice and reinstate a deposed Justice. In March 2009 the lawyers and civil society activists announced a 'long march' for the restoration of the judges especially Chief Justice Iftikhar Muhammad Choudhry from 12 to 16 March 2009 in collaboration with political forces of Pakistan. This long march started at its scheduled time and date in the leadership of Nawaz Sharif and lawyers leaders like Aitazaz Ahsan and Ali Ahmad Kurd. The federal government refused to reinstate the judges and declared section 144 in effect in three of the four provinces thereby forbidding any form of gatherings of the long march. The arrangements were made to block all roads and other means of transport to prevent the lawyers marching towards Islamabad. Despite the utmost efforts of the government the long march continued towards Islamabad. On March 16, 2009 the Prime Minister of Pakistan restored Chaudhary Iftikhar as Chief Justice of Pakistan through an executive order. After that the opposition political parties, lawyers and civil society leaders agreed to stop the long march⁶⁷. During the political crisis of March 2009 Prime Minister Yousaf Raza Gillani credited with playing a positive role in convincing the President to restore Chief Justice and other judges at their positions. According to political analysts the decision strengthened the position of prime minister. This restoration of judiciary has strengthened the federalism in Pakistan. After restoration

judiciary has given a number of free and fare judgments on issues of national importance. (The Dawn, February 26, 2009).

Gilgit-Baltistan Empowerment and Self Governance Order 2009

Gilgit-Baltistan is a very historic place. Earlier it was the part of princely state of Jammu and Kashmir. In 1936 Maharaja Jammu and Kashmir leased this area to British India. In 1947 Major Brown the local administrator of the area made a unilateral declaration of accession of Gilgit Baltistan to Pakistan. People of the area were demanding political authority in the form of constituent unit since a long time. Because this area was the part of Kashmir and according to the UN resolution of 1948 it was difficult to incorporate it in Pakistan's administration directly. People of the area did not want to go back to Kashmir. Their aspiration was to get political autonomy like a federating unit within federation of Pakistan. (Khan, September 9, 2009) Since for this area was being administered through different acts of government of Pakistan. Geographically it is the political entity of Pakistan in northern side. This area achieved the status of an administrative unit in 1970 under the name of Northern Areas. The demand for political autonomy by the people of the area was not secessionist in nature rather than it was integrationist.

The demand was an autonomous province of their own under the federation of Pakistan. This area has strategically importance not only for Pakistan but also for South Asia. It is situated near Silk Route connecting Pakistan and China by road and has great potential for hydroelectric projects. Foundation of Bhasha Diamer Dam currently laid there. Ethnically people of the area belong to Shia sect of Muslims. That is why acknowledging the importance of area, the democratic government of 2008 granted a package of autonomy to the people of Gilgit Baltistan by replacing former Act of administration of 1994 in the name of Gilgit Baltistan Empowerment and Self Governance Order 2009. These reforms were introduced to enhance the administrative capability of the area and to solve the problems of the local population. It was formed by the amalgamation of the Gilgit Agency, the Baltistan District of the Ladakh Wazarat and the states of Hunza and Nagar. The federal government was intended to create an independent administrative unit without giving it a provincial status and started this process in 1975. The purpose of the new package was to implement new reforms in the region to increase the administrative capability of the federal government.

The reforms are not still fully implemented. In third reforms program that presented in 2009 the government approved a self governance reforms package for the region aimed at giving it full internal autonomy without the status of a province and changed its name to Gilgit-Baltistan. The bill replaced the Northern Areas Legal Framework Order of 1994 and gave the status of informal province. Under the order, Gilgit-Baltistan Assembly will formulate its own rules of legislation. The legislation upon internal matters will be done by a council and an assembly in their respective jurisdictions. The democratization process of the area was seriously affected during the government of Benazir Bhutto under the Northern Areas Legal Framework Order 1994. The third reforms package was signed by President Asif Ali Zardari in September 2009 that further increased the administrative authority of the region. According to the president Asif Ali Zardari the aim is to provide maximum administrative autonomy for the area. The Gilgit-Baltistan Empowerment and Self-Governance Order 2009 changed the name of the region by providing a Chief Minister as leader of the Legislative Council, Public Services Commission, Chief

Election Commissioner and Auditor General. In addition a Governor was also appointed by the federal government to establish the regional administrative control. An Assembly with 25 member and additional five seats for women has also been established. The Pakistan People's Party won the first general elections of the area that held under the new framework and formed the government. Now this region is in the mainstream of political and administrative system under the federal government of Pakistan. People of the area are now enjoying the political autonomy. This act of democratic government has also strengthened the federalism in Pakistan. (Goraya, January 11, 2010).

Fiscal Federalism under Democratic Government

The fiscal policies adopted by the federal government in the past were based on the centralized structure that harmed the federalism in Pakistan badly. National Finance Commission was established for the division of fiscal resources under different constitutions. The previous fiscal formulas presented by National Finance Commission were based on population. The criteria which was adopted in the previous awards was lacking in consensus due to three main inequalities. Firstly population was the main element for dividing resources. Secondly all of the revenue generation was controlled by federal government. And thirdly all awards provided main share to the federal government. Provinces received 80 percent in the awards of 1974, 1979 and in 1990 but situation changed in 1996 when award was presented in Malik Meraaj's care taker government which assigned a highly increased share to the federal government of 62.5 percent and provinces got only 37.5 percent.

Now a consensus based formula of fiscal distribution was required to appease the provinces. The Pakistan People's Party government that began to start its functioning in 2008 started to examine the several root causes of lack of consensus amongst the provinces. Prime Minister Yousaf Raza Gillani considered the reformation of National Finance Commission as one of the prerequisite objective for resolving the issue immediately. The government started work for the restoration of consensus to enhance the financial condition of the provinces. A commission was established in July 2009 to examine the statistical and economic conditions of the state. Based on the analysis the commission finalized the distribution of 7th NFC award in December 2009.⁶⁹ The award was signed in the presence of Prime Minister of Pakistan and all chief ministers of four provinces at Gwadar and was announced in Lahore on Friday December 11, 2009 by the finance minister Shaukat Treen.

Under the new award the provincial share from the divisible pool increased from 47.5 per cent to 56 per cent for the fiscal year 2010-11 and further 57.5 per cent for the upcoming years under the vertical distribution of the federal resources. The federal government also decided to cut tax collection charges from the divisible pool from 5 per cent to 1 per cent. The finance minister Shaukat Tareen addressed that the subject of sales tax on services will be considered in provincial list and it might be collected by the respective province. The net Hydal power charges and gas development surcharge has also been transferred to the provinces at the discretionary demand of Khyber Pakhtun khwa and Balochistan. The reforms in the divisible pool have also been examined. All the provinces accepted the adopted formula with consensus. A multiple criteria were adopted by the federal government for the distribution of resources. The criteria included variations such as; Population 82 per cent, Poverty and Backwardness 10.3 per cent, Revenue Collection/ Generation 5 per cent and Inverse Population Density including urban rural

development 2.7 per cent. (Usman & Khalid, Finance Commission Awards in Pakistan Historical Perspective No.2007:33)

The 7th NFC Award included 44:56 ratios that distributed between center and the province. **Out of 56 per cent provincial share from the divisible pool, the share of each province is as** following; Punjab 51.74 per cent, Sindh 24.55 per cent Khyber-Pakhtunkhwa 14.62 per cent and Balochistan 9.09 per cent. Many political leaders including President Asif Ali Zardari, Prime Minister Yousaf Raza Gillani and Nawaz Sharif besides the other political parties and finance and political analysts widely hailed consensus over 7th NFC Award as a remarkable achievement of the federal government. (Waseem, 2010)

The distinct units create a state by giving up their some sovereign powers to center there center can enjoy only some exclusive federal powers along with concurrent powers and residuary powers remained to units. America, Australia and Switzerland are the best examples through a process of devolution only the provincial and concurrent but some states had adopted the nomination of both power like India and Pakistan. "Ideal distribution of power between governments in a federation to be one in each government also was able to act independently within its own water right sphere of responsibility. But concurrency has many advantages two. It Provides an elements of flexibility in the process of Law making". If there is no concurrency in the constitution it has two advantages. It gave autonomy to the federating units and at demand there bounders of responsibility for each order of government. (Nishtar, Health and 18th Amendment Retaining National Functions in Devolution pp. 11-13 WWW.heart file.org). After the elections of 2008 PML-N suppressed the PPP to act upon the Charter of Democracy and PPP also wanted to visualize its manifesto in which party made commitment to work for provincial autonomy. For this purpose a 27 members Special Committee on Constitutional Reforms (SPCCR) was appointed. Notable feature of this committee was the representation of big parties like PPP, PML-N and MQM which was only 9 while other 18 members were taken from small ethnic groups of small provinces. Senator Raza Rabbani was chosen as the head of the committee. SPCCR served 385 hours on deliberations about new constitutional package.it received 982 proposals about the provincial autonomy. When it was moved in national assembly for voting 292 votes came into its favor and none in opposition. In April 2010 it was moved in senate for its passing and it received 90 votes in favor and passed from senate without any opposition. It was passed by National Assembly on April 8, 2010, Senate passed on April 15, 2010 and president signed it on April 19, 2010.Here role of President of Pakistan Asif Ali Zardari is also worth mentioning who not only prepared to shift his powers to the Prime Minister and parliament but also facilitated the task by allowing Parliament to do so. (Nishtar, Health and 18th Amendment Retaining National Functions in Devolution pp. 11-13, www.heart file.org).

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