A Symmetric Federalism in Pakistan: Historical Lessons and Constitutional Challenges

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Abstract. Federations are made up of several entities including cultural, political, and economic interests. These variations often leads to debates and disputes resulting from the natural and institutional differences within a federation. To resolve such differences, some federations employ a symmetric federalism, a constitutional system meant to accommodate differential requirements and desires among affiliated units. In recent years, a symmetric federalism has gained significant scholarly attention, with studies investigating its origins, evolution, conceptual frameworks and various degrees of application across the world. In Pakistan, a federal state marked by uneven federating units and past difficulties with national cohesiveness, this paper explores the existence and consequences of symmetric federalism. By studying theoretical foundations, the country's natural structure and constitutional arrangements, this study analyzes whether a symmetric pattern exist in the federal system of Pakistan. A special focus is given to the historical rejection of federalism that led to the partition of East Pakistan (now Bangladesh), analyzing the political, institutional and constitutional elements that contributed to this key event.

Keywords: Language barrior, Distribution of sources, Recruitments of military, Economic un-equality, Sheikh Mujeeb's six points.

1 Introduction

1.1 A Subsection Sample

The adoption of a constitution is a significant milestone in the history a nation. A constitutional framework is a document that both represents a country's history and influences its government. It is the result of past struggles, victories, discussions, and compromises. It serves as the machinery of government, a code of conduct for states people and a symbol of the hopes and aspirations of the people (Munawar & Mushtaq, 2022).

Federal government is grounded in the principle of dividing powers between the central government and its constituent units—often called states or provinces. Federalism is especially appropriate for heterogeneous societies, composed of diverse ethnic, cultural or linguistic groups where a unitary system or confederation may inadequately address concerns of representation, governance and local identity. Without a political structure

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that accommodates diversity, the integration and stability of the state may be threatened (Tahir, Askari, & Jatoi, 2023).

In a federal system, subjects or policy areas are typically divided among exclusive lists: those handled by the federal government, those reserved for state or provincial governments and a concurrent list over which both levels may legislate (Qaisrani, Ahmad, & Qamar, 2021). In case of conflict, supremacy usually lies with the federal constitution and its interpretation. Therefore, the successful functioning of federalism depends on strong constitutional foundations and their protection by an independent judiciary.

One example is Pakistan. Pakistan has been a diverse society with several ethnic and linguistic identities since its establishment in 1947. Federalism was considered as a solution to promote political unity and preserve the interests of multiple regions (Ahmed, 2013). Disputes over politics throughout Pakistan's history based on the constitutional issue, notably with smaller provinces arguing for greater administrative and economic autonomy to counter balance the dominance of Punjab in the national parliament and the federal bureaucracy. The problems with federalism in Pakistan are examined in this study. It looks at the main constitutional changes intended to advance federalism as well as the important obstacles and modifications that have emerged in these endeavors.

2 Literature Review

Asymmetric Federalism is a framework where different parts of a federation have different types of autonomy and power. This approach undermines the common idea of symmetrical federalism, where all units are dealt with fairly. Watts et al., 1999 noted that asymmetric arrangements are typically constructed to suit the varied demands of diverse regions within a state, seeking to keep unity while acknowledging regional heterogeneity.

Many studies have been conducted on the implementation of asymmetric federalism in Pakistan. The de facto and de jure features of asymmetry in Pakistan are examined in a 2019 study (Kosar, 2019), which looks at how practical governance and constitutional provisions differ by province. This distinction is crucial in understanding the intricacy of federal arrangements in Pakistan. Pakistan's history of federalism has been distinguished by major constitutional successes and failures. The 1956 Constitution attempted to establish a federal structure with equity between East and West Pakistan. However, the centralization of authority and the dominance of West Pakistan in the federal structure led to resentment in East Pakistan, resulting in the division of East Pakistan in 1971 (the foundation of Bangladesh).

By establishing a fair division of authorities between the federal government and the provinces, following constitutions like 1973 Constitution, aimed to solve such problems. However, there have been disagreements over the efficiency of Pakistani federalism. For an instance, the 18th Amendment's passage in 2010 marked a crucial turning point in Pakistan's federal history (Jaffrelot, Waseem, & Faiz, 2024). By handing the provinces several powers previously held by the federal government, this amendment

dramatically strengthened provincial autonomy. In an effort to redress the historical imbalance in federal-provincial relations, it deleted the concurrent legislative list and reallocated some items to provincial jurisdiction.

Challenges originated in implementing the 18th Amendment, as mentioned by Shah (2012), stressing the need for improvements in multi-order governance to guarantee the devolved system runs properly. The World Bank's review (Park & Weaver, 2012) reveals that the amendment's intentions were not completely fulfilled due to institutional and administrative constraints. Despite the purpose of improving equity between provinces, asymmetric structures continue. According to Jaffrelot et al. (2024), the amendment signaled a change from de jure to de facto federalism, with provinces anticipated to gain more power in theory but confronting practical difficulties. The diverse application of the amendment contributed to varying power levels among provinces, reinforcing symmetric federalism; this dynamic was explored by Kosar (2019) in relation to center-province relations from 1988 to 1999.

The study emphasizes that equality may be suggested by constitutional provisions but actual governance frequently reveals differences in authority and resources between provinces. The allocation of resources, representation in politics, and interprovincial interaction are among the ongoing problems with Pakistan's federal system. Provinces like Sindh and Balochistan have regularly aired complaints about alleged unfairness in the National Finance Commission (NFC) Awards, which decide how financial resources are distributed among the provinces. Furthermore, Punjab's dominance in federal institutions affects the balance of power, and historical power dynamics continue to define the political scene. (Adeney & Boni, 2023) explores how regime transitions and centralization initiatives have influenced the federalism in Pakistan, stressing the need for a more inclusive and balanced federal system.

Research on Pakistan's symmetric federalism shows that complex constitutional requirements and actual governance interact. Even though there have been major advancements, especially with the 18th Amendment, there are still issues with achieving true federal equality. In order to strengthen Pakistan's federal system, future research should concentrate on reviewing the execution of constitutional modifications, removing institutional impediments, and increasing interprovincial collaboration.

2.1 Language

Language was the major problem of the fall of east Pakistan now (Bangladesh). The population of the east Pakistan was more than west Pakistan. On the base of population, they say that Bengali should be the National language of east and west provinces instead of Urdu. On the other hand, all the educational syllebous of west Pakistan were in Urdu they read and spoke Urdu only. While people of east only knows the Bengali language they read and speak the Bengali. Before the independence of Pakistan, East Pakistan people says that the status of Bengali language should be National. Punjabis has the power all over in offices, education and military they did not want that Bengali should be the National language. While in population East Pakistanis were in majority. They did not want that Urdu should be National language. Nationalists of the East Pakistan were in movement every time that Bengali is the big language in East and West Pakistan

and it is spoken by majority of the population. At the end this was decided that in all provinces their own language will be spoken but at the National level Urdu will be spoken in offices. But East Pakistanis were not agreed because they said that Bengali is the language of majority so it should be the national language. Language was the main conflict of east and west Pakistan.

2.2 Distribution of Sources

All the sources of income were founded in East Pakistan and they were used in West Pakistan. This was the main issue of East and West Pakistan. As jute, patsun, tea and etc were founded in East Pakistan. These were the major sources of income and in a large amount were exported and a lot of money was earned who was mostly expended on West Pakistan. Most of the budget was expended on military while most of military of Pakistan was from Punjab and little more was from other provinces.

2.3 Bangladesh Liberation War

The Bangladesh Liberation War, which took place in 1971 between east and west Pakistan, resulted in the establishment of "The Bangladesh Republic." On March 25, 1971, nationalists, civilizations, students, intellectuals, religious minorities, and other groups demanded self- determination and acceptance of the 1970s election results. "Sheikh Mujeeb Ur Rehman" was arrested by the army and banned from any political and news publications. The Pakistani army used military raids, airstrikes, mass casualties, and killings to terrorize both rural and urban regions. It encouraged religious extremist organizations like Al-Badar and Alshams, which promoted sectarian conflict. In response, eleven sector commanders and M.A.G. Usama led the Bengali military and paramilitary to establish Mukhti Bani. They engaged the Pakistani soldiers in a big gorilla war. Before the Pakistani military restored control in the early months of the conflict, Bangladeshi soldiers freed numerous cities and towns. Large portions of the countryside were taken over by the Bengali resistance. The Indian government, commanded by Indra Gandhi, provided liberation forces with substantial military and economic backing. America, India, and the British all backed the Bengal liberation war. Mukhti Bani defeated Pakistani forces during the nine-month conflict, and by November, he was imprisoned at night. Following Pakistan's anticipatory attacks on northern India, India entered the war on December 3, 1971. The Indo- Pakistan War of 1971 happened in the Arabia Sea and Bay of Bengal. On December 6, 1971, Bhutan declared Bangladesh as a distinct nation. On December 16, 1971, Pakistani forces handed over to the allied forces of Bangladesh and India, and 90,000 Pakistani soldiers were captured as prisoners of war in accordance with the Geneva Convention. In 1972, the new nation was acknowledged by most UN members. Language, culture, and political factors are only a few of the many reasons that led to East Pakistan's division.

2.4 Location of capital

Pakistan made Karachi its capital after breaking independence from India, but East Pakistanis claimed that since they were the majority, Dhaka should be the capital. Because

they were able to influence choices in their favor, the location of capital led to a significant imbalance, unequal distribution of wealth and pre-village, and better jobs for west Pakistan. Every industry, office, and ministry were located in Karachi. Due to their distance of thousands of miles from the Pakistani capital, East Pakistan was deprived of these advantages, whereas West Pakistan benefited more from them.

2.5 Representation

West Pakistan provided representation based on equality, while Bengal sought participation in the legislature based on population.

2.6 Provincial Autonomy

One of the main challenges was the division of provinces between East and West Pakistan. While West Pakistan desired strong central authority, East Pakistanis demanded regional autonomy. Bengalis were not given population-based representation in any field, hence they desired provincial autonomy.

3 Six Points of Sheikh Mujeeb-Ur-Rehman

East Pakistan's partition was primarily due to six points of Sheikh Mujeeb-Ur-Rehman. Seventy- five percent of the East Pakistani electorate supported the Awami League, and the Federation will provide them complete autonomy based on six points in total. Sheikh Mujeeb-Ur-Rehman's six points are listed below.

1. The form of governance shall be federal and parliamentary. Population-based representation shall be used in the federal legislature.
2. Only defense and international relations shall fall under the jurisdiction of the federal government.
3. Each wing for every region shall have two distinct currencies that are freely or mutually convertible.
4. Fiscal policy shall be the responsibility of the Federating units.
5. Separate accounts of foreign exchange earning of each of the Federating units.
6. The units shall be permitted to maintain a paramilitary force in order to participate towards National security.

West Pakistan believed that these were intended to cause the nation to fall apart. The independence of East Pakistan (now Bangladesh) was primarily motivated by these six factors.

3.1 Educational Institutions

As we all know, nations cannot advance in this day and age without knowledge. One of the primary reasons for East Pakistan's division was educational establishments.

There were 27,000 educational institutions in East Pakistan following Pakistan's independence in 1947, but by 1965, there were only 26,000. This clearly shows that the government was unconcerned with the growth and development of East Pakistan (now Bangladesh).

3.2 Military Operation

East Pakistanis' grievances ought to have been settled via communication and compromise, but West Pakistan used force to compel East Pakistanis to retaliate against them. This led to the capture of our army, which was severely humiliated and its honor diminished.Please note that the first paragraph of a section or subsection is not indented.

4 In Search of Interwing Party

Since its founding, Pakistan has had an uneven federal system due to the demographic dominan ce of the East Pakistani provinces, which make up 55% of the nation's total population. The ruling class west wing, which possessed administrative, political, and economic power, rejected the depressing possibility of giving the east wing a permanent majority. It strengthened the cause of inter-wing parity in terms of equal representation in the legislature. The concept of parity undercut Nazimuddin's 1952 report, which proposed for a bicameral legislature with 60 and 200 members in the upper and lower houses, respectively, for each side. Subsequently, the 1953 Mohammad Ali Bogra formula granted East Pakistan 10 and 165 seats in the upper and lower legislatures, respectively, while West Pakistan got 40 and 135 seats.

East Pakistan thus maintained a majority in the lower house but not the upper house, notwithstanding a law authorizing a combined sitting of the houses in the context of a disagreement (Adeney, 2016). This scheme was not adopted. The Punjab Chief Minister Noon actively promoted a rival concept for a zonal Sub-Federation for the West Pakistan, which was nevertheless immediately withdrawn. The federation for both the 1956 and 1962 constitutions was based on the 1955 merger of West Pakistani provinces and territories into a single mega- province in order to reach parity with East Pakistan.

Specifically, Punjab as a whole, and president General Iskandar Mirza and commander-in-chief General Ayub, campaigned for unity and defeated opposition from Sindh, Baluchistan, and Khyber Pakhtunkhwa (Waseem-LUMS, 2010). Karachi was the capital of West Pakistan, located in Sindh. Karachi was succeeded as the capital of Pakistan in 1960 by Islamabad, which is situated in Sindh. Many argued that Pakistan had become more like Punjab primarily a result of the new Federalist structure. The adoption of one unit was supposedly driven by national integration. Instead, the ethnonationalist movements in Khyber Pakhtunkhwa, Sindh, and Baluchistan were the outcome of a violent backlash.

In 1970, West Pakistan's former provinces were reconstituted. Baluchistan was created as a province for the first time. For the first time, Baluchistan was established as a whole province. In contrast to India, Pakistan did not restructure its provinces according to linguistic boundaries. This left several ethnic communities separated from their main cultural regions and positioned as substantial minorities within different provinces.

These groups continued to proclaim their own identities, such as the Pakhtuns living in Balochistan, the Mohajirs from India (Urdu- speaking migrants) in Sindh, the Saraiki-speaking population in southern Punjab, and the Hindko-speaking community in the Hazara area of Khyber Pakhtunkhwa. The political leadership in Pakistan rejected language as a valid foundation for identity. India, on the other hand, recognized linguistic identity but excluded religion as a constitutional marker (Adeney, 2016). Pakistan took the opposite approach—religion was elevated as the central identity, while language was minimized due to fears that it could lead to political unrest (Rahman, 2010). This ignores the goal of creating provinces based on language. The formation of new provinces has proven to be very challenging due to the need for a two-thirds majority in both chambers of parliament in addition to approval from the legislatures of the relevant provinces. As contrast to this, in India merely a simple majority in Lok Sabha is essential to establish an additional province, however the consensus of the appropriate state parliament must be achieved. The 21- point progame of the united front in East Pakistan in 1954 sought the formation of a federal state based on the 1940 Pakistan Resolution. The 1966 six-point plan of the Awami League sought to radically change federalism once more. It called for adult voting rights in a parliamentary system, two areas of expertise for the center (defense and foreign policy) as well as communications, two disputable reserve banks for the two wings, taxation jurisdiction for the provinces to manage foreign exchange and trade, and parliamentary forces for East Pakistan. The federation forcibly disbanded in 1971 as a result of the two sides' inability to agree on the amount of provincial autonomy and Yahya Khan's unwillingness to permit the Awami League to establish a government afterthe 1971 elections.

5 A Majority-constraining Federalism: The 1973 Constitution

The partition of East Pakistan provided new ideas about Federalism, as Punjab now embodied the viewpoint that a single province controlling all with 56% of the population. One province's majority in the legislature will be limited, according to the smaller provinces' agreement. With Bangladesh looming enormous on the horizon, the spectrum of other ethnic minorities broke away from what remained of Pakistan. The elites of Sindh, Baluchistan, and Khyber Pakhtunkhwa supported majority-restrictive federalism. Being from Sindh himself, Prime Minister Zulfiqar Ali Bhutto was able to meet the provinces' requests for a bicameral parliament with a territorial chamber (the upper house) and a population chamber (the lower house). The intention was for the majority in the Senate to counterbalance Punjab's dominance in the National Assembly. It was manipulated by the three smaller provinces. The legal usage of provincial languages was acknowledged at the provincial level. In 1973, Sindh became the only province to recognize Sindhi as a provincial language, making it the official language of Sindh. As a Sindhi language, Urdu was immediately rejected. There was a severe impact on Mohajirs that resulted in linguistic violence, resulting in years of conflict between the two communities (Adeney, 2016). Similar to the Murree Accord between the Bengali and Punjabi groups before to the 1956 constitution, the 1972 agreement between the Awami National Party (ANP), Jamiat Ulema Islam (JUI), and the Pakistan Peoples Party (PPP)

accompanied the constitution of 1973 (Lee, 2015). A National Assembly with a majority for Punjab and a Senate with equal representation for all four provinces, each with 19 members—three for Islamabad and eight for FATA—were established under the 1973 constitution. The majority of the lower house can be balanced by the upper chamber's alleged demos-constraining function (Dicey & Wade, n.d.). However, the balanced policy scope of the two houses counteracted the effect of the Senate's greater representation of smaller regions. The senate possess no influence over bills for money. Following passing through the National Assembly as well as passing the other house, the national budget might eventually be given to the president for approval. The 17th amendment of 2003 expanded the National Assembly's membership to 342, with 272 appointed members, 60 seats reserved for women, and 10 seats for minorities, in accordance with Musharraf's 2002 legal framework order. Additionally, it expanded the Senate to 100 seats, with 22 seats allotted to each province, 4 seats for Islamabad, and 8 seats for FATA. For the money bills to become law, they had to be presented to the Senate. Members of the National Assembly (MNAs) from Islamabad and FATA, as well as members of the Provincial Assembly (MPAs), make up the electorate for the Senate. Senators are removed from the public once due to their indirect appointment under proportional representation—the single transferable vote (PR-STV) system, which has a poor representative quality. The three-year election of half the House and the six-year election of the Senate have developed into a type of "selection" by political parties over time.

6 CONCLUSION

In conclusion, a number of structural, social, and political issues contributed to Pakistan's federalism's failure. The breakup of the federation was largely caused by differences in religion, language, culture, and regional nationalism. East Pakistan's division was the result of a number of unresolved administrative, political, and historical grievances rather than a single reason. Economic imbalances, centralized government, limited representation and failure to meet the different character and aspirations of the Eastern-Pakistan further aggravated the situation. Additionally, external influences and backing from international actors had a part in influencing the events leading to the independence of East Pakistan. All things considered, the case of East Pakistan demonstrates how important equitable resource allocation, inclusive government, and constitutional clauses that respect regional diversity are to the viability of a federal system.

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