

Proposed principles of devolution for pakistan politics essay



**ASSIGN
BUSTER**

Pakistan faces an existential threat. Dealing with it must be a priority for those who hold the reins of power. A new development paradigm is needed which must work to restore not only the confidence of the domestic players in the economy, but also revive external interest in the country's economic future. An important part of the suggested paradigm is the notion that one way of rebalancing the economic and the social and political systems is to bring government closer to the people. The Award made by the 7th National Finance Commission (NFC) in the late 2009, is a big step in this direction. The other is the passage and the signing of into law on April 19th 2010 of the 18th Amendment to the Constitution by the President.

With the passage of the 18th Amendment decentralized federalism could be said to have made a start. In March 2012, Pakistan became a formal member of the Global Forum of Federations. How the newest member performs, and to what extent does its experiences contribute to the increasing knowledge base of political governance and development remains to be seen. It will be important to attempt to define the underpinnings of the new devolution system, and to clarify its conceptual basis that may assist in guiding both its implementation and assessment of its effectiveness.

Federalism, according to the legal dictionary (<http://legal-dictionary.thefreedictionary.com/Federalism>) is

“ A principle of government that defines the relationship between the central government at the national level and its constituent units at the regional, state, or local levels. Under this principle of government, power and authority is allocated between the national and local governmental units,

such that each unit is delegated a sphere of power and authority only it can exercise, while other powers must be shared.”

The term federalism is derived from the Latin root *foedus*, which means formal agreement or covenant. Governance through a federal system includes interaction between component units, as well as with the government at the centre. Each level of government governs according to its specific mandate, with varying degree of authority. This degree of control, over actions and resources is defined through the constitution of the federation.

There is no single way to define the best model of federalism. Wherever there is a strong movement for democracy, there is usually an attempt to bring in a federal system. “ There has been a mushrooming of federal systems. While Australia, Canada, Switzerland and the US were the only functioning federal democracies in 1945, today some 25 to 30 countries, with 40 per cent of the world’s population, are federal.” (George Anderson, Global Brief, Federalism over the Next 20 years, October 2011). Driven by political and economic imperatives, every federating country has a different model, shaped through its own system of democracy, will of politicians and strength of institutions. Many countries have taken actions that they believe are in line with their devolved system, only to find that these decisions need to be reversed. Many others have functioned well enough with a semi or quasi federal structure, with a complex distribution of power and resources between the federating units. The ability to work with such models and to evolve these over time depends considerably on both the flexibility and the

power within the system, as well as the resilience of the larger system of democracy that is a necessary condition for governance.

“ Federalism is a political device which is adopted to further ends which are always partly and sometimes predominantly economic. How far it succeeds in furthering these ends will depend partly on the nature of the constitutional arrangements, partly on the policies of the political leaders, and partly on the effectiveness with which those concerned with economic development take advantage of the opportunities presented to them.” (A. H. Birch “ Intergovernmental Financial relations in New Federations”: Federalism and Economic Growth in Underdeveloped Countries, ed. Ursula K. Hicks London; Allen &Unwin, 1961), pg. 113).

Pakistan has been largely governed by alternating military and civil rule, the latter more or less through a centralised bureaucracy. The failure of the government to accord autonomy to federating units resulted in the secession of East Pakistan in 1971 and subsequent years have seen tumultuous times marked by army coups and short term civilian governments. The year 2010 is a landmark in that a major amendment to the constitution called for redistribution of the legislative powers, transfer of several items from the concurrent to the provincial list, and the reconstitution of the Council of Common Interests to debate issues relevant to the country as a whole. Thus, the 18th amendment, in its design and proposed intent, claims to be aligned to the true spirit of federalism, as defined in the directives of policy and the 1973 constitution by devolving power to provincial governments.

Decentralization can take various forms. The first is deconcentration, which is the transfer of responsibility to lower levels of governance.

Deconcentration takes place within the same legal entity, has vertical and hierarchical relationships between higher and lower levels, and accountability is administrative so that directions flow from top to bottom, and lower levels are answerable to higher levels. In delegation, separate legal entities are formed, relationships are vertical but not necessarily hierarchical, and accountability is through a contract- negotiation and agreement. In the process of devolution, accountability is the main differing point. It is vertically defined by law, and horizontally to the constituency through a political process. (The Conceptual Framework and Main Principles of Decentralisation by Devolution: Issa G. Shivji)

The World Bank defines four types of decentralization, viz

“ Political decentralization: Groups at different levels of government-central, meso and local-are empowered to make decisions related to what affects them.

Administrative decentralization: Different levels of government administer resources and matters that have been delegated to them, generally through a constitution. In terms of decentralization as a process of change, and according to the level of transfer of responsibilities, it is useful to distinguish between deconcentration, delegation and devolution.

Fiscal decentralization. In this case, previously concentrated powers to tax and generate revenues are dispersed to other levels of government, e. g.,

local governments are given the power to raise and retain financial resources to fulfill their responsibilities.

Market decentralization: Government privatizes or deregulates private functions, such as occurred in the case of New Zealand forest sector”.

(World Bank 2000 in Gregersen et al.)

<http://www.worldbank.org/publicsector/decentralization/admindecen.htm>

These distinct but linked types of decentralisation call for specific changes within the government systems, as illustrated below.

Source: Fritzen and Lim 2006

The systemic changes identified in the illustration are both those necessary for devolution to be effective, as well as those that may result as a direct consequence of the devolution process. Perhaps one of the most significant points to be noted is the link between political devolution, democratic processes and institutions (including role of civil society and participative planning) and devolution. Examples from other countries such as Russia show that attempted decentralisation failed because of lack of democratisation within society and the political process. Devolution in India, despite possessing strong centralist tendencies has been viable because of its strong and vibrant democracy.

The complexity of decentralisation by devolution is depicted in the following illustration.

Source: UNDP 2004

Advantages of Federalism

Distribution of power, ensuring vertical distribution to at least two tiers of government and additional checks and balances, in addition to horizontal among legislative-executive-judiciary

Support to democracy, enabling citizens to participate actively in their own development and exercising their right to vote both nationally and regionally

Greater opportunity for local problems to be resolved through local and regional governments. National governments tend to be remote and may not be sensitive to issues in far off provinces

Ensures balancing of power even if one group takes control of all three branches of the federal government, federation ensures that the state/provincial governments would still function independently.

Promotes leadership by offering opportunities for local politicians even if they are in a minority at national level

Easier access of people to government for action

Optimum utilisation of resources enables the national government to focus on issues of international relations, while local development can be taken care of by local government.

Different parts of a country can be very diverse and have different aspirations. Federalism can support this diversity to be incorporated within local policies and local cultures and languages to develop further.

Opportunity for experimentation and innovation. Different provinces can practice different approaches towards the same issue, and the results can be shared and evaluated. Successful models can be replicated if found feasible.

The need to co-exist in a federal structure calls for an environment of mutual cooperation and compromise, that may lead to more balance and hinder extreme positions.

Disadvantages of Federalism

With different levels of responsibilities even for same functions, and a check and balance system, a federal system is far more complicated and difficult to operate. Both government officials and citizens find it difficult to understand.

The departments at different levels of government need to consult, coordinate and negotiate. The process can be time consuming and can be used as a ruse by government officials for causing delays.

Over lapping of responsibilities and confusion of roles may diffuse accountability between different levels of government.

It can lead to duplication of government and inefficient overlapping or contradictory policies in different parts of the country.

As different regions focus on their own development, inequalities among them may increase. Regions with a higher tax base would do better than

others as in the case of India. Empirical evidence shows that devolution in several developing countries was accompanied with rise in regional inequality, except in Brazil, where the federal government controlled a large revenue pool through which transfers could be made to the poorer regions (85% were set aside for these).

Negative externalities, such as spread of uncontrolled air or water pollution or infectious disease from one region to another in case one is slack in its environmental or health management laws and practices can be a major problem.

There could be a breakdown of the common market for national goods and services, such as wheat, sugar and even water. In absence of central controls, some regions may impose restrictions on movement and price of essential items.

Regions could begin to engage in “fiscal wars”, similar to what Brazil did in the 90s; giving financial concessions to foreign investors without any limits, thus incurring huge debts.

Ensuring minimum national standards becomes a problem if subjects such as education become completely decentralised. How will human development at an internal level be ensured?

In some federations, it becomes morally binding on the centre to bail out sub national governments that have failed.

Prevent creation of a national policy: Promulgation of national policies, as opposed to state policies becomes an issue.

<https://assignbuster.com/proposed-principles-of-devolution-for-pakistan-politics-essay/>

Federalism, Devolution and Human Development

Conceptually, federalism and devolution should promote human development, which is explained as “ expansion of peoples’ capabilities and their range of choices. As such, it

focuses on the ability to lead a long and healthy life, to acquire knowledge and to be able to enjoy a decent standard of living. These, in turn, depend upon access to basic services like education and health, expansion of income-earning opportunities and greater participation in both economic and political processes, along with greater empowerment in terms of freedom of choice.” (Decentralisation and Human Development, SPDC, 2007).

Devolution contributes to human development through positive implications for “ efficiency, equity, participation and impact on local economic activity.” (Decentralisation and Human Development, SPDC, 2007).

The experience of federalism in the world has been mixed. In some developing countries, federalism and devolution have not promoted participation, responsiveness or accountability. “ Critics argued that if anything, federalism had undermined these essential aspects of the transition. As Frances Hagopian (1996) argued in her study of Brazil, regional politics in some areas remained traditional, with a narrow concentration of political power, restricted access to decision-making, hierarchical channels of political representation, and limited political competition. Research shows that the nature of steps taken to introduce federalism, and the relative success to meeting its objectives depends on the history as well as the manner in which federalism was structured in these countries (Brazil,

Argentina, Russia) rather than the notion of federalism itself. In the countries
<https://assignbuster.com/proposed-principles-of-devolution-for-pakistan-politics-essay/>

mentioned, central governments devolved responsibilities but were not given authority to raise revenue, and the regions remained dependant on transfers rather than their taxes. Thus, many sub national governments have unfunded mandates. “ Problem” federations tended to be the ones where most taxes were shared between levels of government, via non-transparent or “ pork-barrel” style formulas. Lack of firm criteria for allocating federal funds made it especially difficult to plan regional services. “(The two faces of federalism, Kazan Centre of Federalism and Public Policy, Donna Bahry, Department of Political Science, 2003). Over dependence on the centre often undermines the horizontal accountability to civil society and the constituency, thus reducing chances of planning for the benefit of local people.

According to the report on Democracy and Federalism by the World Democracy Movement, a federal structure is “ financially expensive, with structures at each tier of government that must be financed, institutionally complex and may demand greater administrative bureaucratic capacity at each level than is available at any point in time and demands a relatively high level of cooperation and active intergovernmental relations.” Thus, for a federal system to work, it recommends that

Each level of government should be autonomous “ in a democratic context to enable local people to set priorities and use resources to achieve them.

Federal systems must extract greater resources for effective financing of the structures of governance at each level of autonomy.

Greater capacity at each institutional level of government must be developed to enhance efficiency in the delivery of services to the people; this enhances good governance.

To make a federal government more responsive to the people, a network of intergovernmental relations should be established. These can be formal and/or informal, constitutional and/or statutory, and/or ad hoc. A network of intergovernmental institutions helps in coordinating the activities and policies of the various levels of government and facilitates greater cooperation among the tiers.

The pattern of fiscal federalism should take into consideration the functions of each level of government and its corresponding tax powers. The demands of fiscal equalization, to give all units of the federation a sense of participation, cannot be over emphasized.

In the context of a changing global situation and demands for greater autonomy of federative units, there should be a shift from federal control functions to federal interventionist functions. A federal government should seek to intervene to correct inadequacies at the sub-national levels, rather than seek to control them.

Democratic institutional arrangements and processes are important to strengthening federations and enhancing good governance.” (Challenges to Democracy in the 21st Century, April 2008).

It follows therefore that the manner in which the devolution process will be implemented and practised and the nature of democracy and democratic

institutions will determine the extent to which Pakistan will benefit from the promise of provincial autonomy stated in the 18th amendment.

Drivers of Federalism and Devolution in Pakistan

The 1973 Constitution of Pakistan declares that the country shall be such “ Wherein the principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed; a Federation wherein the units will be autonomous; Therein shall be guaranteed fundamental rights, including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality; Wherein adequate provision shall be made to safeguard the legitimate interests of minorities and backward and depressed classes; that Pakistan would be a democratic State based on Islamic principles of social justice; Dedicated to the preservation of democracy achieved by the unremitting struggle of the people against oppression and tyranny; Inspired by the resolve to protect our national and political unity and solidarity by creating an egalitarian society through a new order.” (Excerpts from the Preamble, Constitution of Pakistan, 1973)

The Directives of Policy stated that provinces have an equitable share in the federation.

After 65 years , Pakistan remains a country mired in poverty has some of the lowest social indicators, especially in education and health, in the world, and is racked by extremism, intolerance and regular acts of violence. Despite claiming economic growth during 2002-2007, it the promised benefits of

development have still not reached the majority of the population. A fledgling democratic government is weak, and the country has been fighting a war against extremists, both foreign and home grown, and has incurred billions of dollars in cumulated losses since the beginning of the so called “ war on terror”.

The failure of highly centralist policy making, increasing distance between the state and people, and lack of development reach are some of the more pressing drivers that should enable federalism in Pakistan to be practiced more effectively. International experience shows that countries that have continued governing on the basis of a federal structure have done so on the basis of strong democratic principles.

While there are no set tools to determine effectiveness of any particular federal model, there are certain parameters that may be measured to assess the relative impacts. In its Annual Review of Social Development, 2006-2007, SPDC looked at some impacts of the local governance system introduced by the previous government in 2001. This constitutional amendment was made through a presidential ordinance, and certainly did not meet any criteria of democracy. It also bypassed provincial governments to put into place an elaborate system of local government bodies.

Proposed Principles of Devolution for Pakistan

The 18th amendment which has paved the way for maximal provincial autonomy was formally approved as a constitutional obligation in April 2010. The last year has seen an implementation process that has devolved ministries and institutions from the centre, set up new structures at

provincial levels and put into place fora for debate and discussion. The impacts of the process can only be measured after a few more years have passed, but it will be important to take a rigorous look at the manner in which devolution is taking place and how relevant authorities at both central and provincial level are preparing to address their changed responsibilities. A way to examine the adequacy of expenditure assignments is to analyze how well the actual allocation of responsibilities fits the fundamental rules for the ideal assignment of responsibilities in a decentralized system of government.

We propose a set of principles that may be used to guide which functions of the devolved sectors should be devolved, and which should be retained or taken at central level. The Constitution of Pakistan allows for national functions to be performed at the centre, and also underscores decentralization and devolution to where state run activities affect development the most. Only thus the real spirit of the 18th amendment, which we believe is to ensure quality services to the citizens of Pakistan, improve the state of human development in the country and the ability and opportunity to lead their lives as responsible citizens of a state within a global community may be realised.

The conceptual framework linking decentralization and human development is presented in Figure 1. 3. It shows how administrative, political and fiscal decentralization would lead to macroeconomic stability, efficiency, empowerment and equity. Macroeconomic stability will promote economic growth; efficiency would further enhance local service provision and degree of economic development; equity would reduce urban/rural gaps and regional disparities, and also create direct benefits for the poor, reducing

<https://assignbuster.com/proposed-principles-of-devolution-for-pakistan-politics-essay/>

gender inequality; and empowerment would enable the people to raise their voice, be heard and make choices as they want. These combined would produce improvement in human development.

Some keys principles emanating from the above framework are as follows:

Common Markets: Allocation of expenditures, fiscal powers should not disrupt the operation and functioning of national common markets.

Macroeconomic stabilization: Allocation of expenditure responsibilities should be consistent with allocation of revenue assignment. Sub-national governments should have the resources to fulfill fundamental responsibilities. Sub-national governments should be allowed to access capital markets to expand their resources envelopes. However since central government is generally the “ guarantor and provides of last resort”, fiscal prudence requires agreement on limits to borrowing and some regulation through of promulgation of fiscal rules by both the federation and the federating units.

Promotion of Growth through uninterrupted investments on key sectors:

There is need for sectoral policies in key areas. On key sectors, including social and economic infrastructure, not only should public investment continue uninterrupted, but there should be planning in which the provinces and the federal government play a well understood and coordinated role.

There should ideally be bottom-up planning and the role of the federal government, particularly, an agency like “ Planning Commission” in Pakistan, may be of coordination.

The incentive environment: Another factor which will determine the impact on growth is the extent to which decentralization will influence the level of fiscal effort in terms of impacting the national tax-to-GDP ratio and thereby generate more resources for development. The financing arrangements for devolved functions should, to the extent possible, also be devolved. For example, some slackening in resource mobilisation from own sources is witnessed following receipts of larger intergovernmental revenue sharing transfers in Pakistan.

Subsidiarity: The efficient provision of government services requires that government satisfy the needs and preferences of tax payers as well as possible. This is best achieved through the subsidiarity principle. The principle of subsidiarity that allows for decisions to be taken at a level closest to where the impacts of the decisions take place should be paramount.

National Public Goods: linked closely to the principle of subsidiarity is the argument that leaving the supply of public services with wider benefits areas to smaller units of government is likely to result in inefficient under provision of services e. g. when a tertiary hospital providing regional services is solely financed by a single municipality. Like wise delegation of decisions with inter state impacts (externalities) to the state may result in spillover effects e. g. leaving drug quality regulation to the provincial level with little monitoring.

Linking costs to benefits: Efficiency in the provision of public services is enhanced if consumption benefits are linked to costs of provision via fees, charges and /or taxes.

Income Equalization: Expenditures undertaken by the government for equity or income equalization reasons, such as social welfare are generally thought to be the domain of the central government. The general argument is that regional governments would not be able to sustain independent programs of these natures, because they would attract the needy from other areas. While funding of these expenditures should be a central government responsibility implementation can be left to state/local governments, which may have informational and other comparative advantages.

Equity among federating units and reduction of inequality and disparity: To the extent that mobility of households is limited, regional governments may effectively be able to carry out their own distributional policies. Each province differs from others socially, economically and in its resource base. These differences have been hugely compounded by negligent, inequitable, partisan and patronage oriented development that has take place for the last 64 years. One of the core principles which should form the cornerstone of the devolution process is that actions ensure equitable division of benefits with preference to those that are less developed.

Minimum standard of service provision: To address disparities in inter-state and intra-state service provisions, introducing policies that guarantee desired minimum standards is an important principle. National standards can be enforced in several ways such as incentivising provincial governments with matching grants program or penalizing under performing governments through denying full receipt of grants. Programs in which national standards may be required include social services like education, health, population

welfare, water supply and sanitation. But restrictions should be imposed carefully to protect provincial autonomy.

National unity and integrity: where issues are related to the country as a whole, and require a single, shared and common approach, it is best to consider placing these at a central level, although the basic principles of a federation require even such a process to be consultative and participatory. National decisions need to be taken by consensus and all provinces need to be a part of the decision making process.

Recognition and promotion of diversity and differences: Pakistan's constitution places value on diversity, and real democracy can be strengthened only in a multi cultural environment. The decision to devolve or not to devolve must recognise that the objective of unity should not be to create a homogenous, single dimensional population, but to promote diverse views and opinions.

Cooperation between federating units: Federations are successful where shared resources and benefits are distributed through a cooperative and consultative process, and a policy of cooperation is adopted over competition and confrontation.

Resolution of issues through consensus and debate: Institutional fora should be made effective as the mark of an effective and workable devolution process where political resolutions that are widely debated, are non personalised and can be said to have general agreement. This would be the approach preferred over legal battles fought in courts.

Explicit inclusion in constitution: If a particular sector or function, or institution is stated by the constitution to be devolved, it should be, after consideration of what the devolution would mean in terms of discharging relevant duties and responsibilities, and what resources may be required.

The expenditure assignment based on the above conceptual basis is presented in Box 1. 1.

The above provides a guideline and assessment tool if it were to be nested within an overarching framework of centre-province, and province-province relations. Decisions related to what is devolved, with what responsibility and authority and what resources, and whether and how the devolved functions would take into consideration the needs and aspirations of the people would all be checked against the filters of macroeconomic Stability, Efficiency, Equity and Empowerment.