

The history of provincial autonomy politics essay



Autonomy itself is defined as a condition of self-government. Federal and Unitary are two different states. In the former, powers are divided between the central and provincial governments. However, in the later, the powers are centralized. (kundi, 2002).

Provincial Autonomy is such a system in which the government of the provinces is independent from any external influence and does not rely on any of the external forces. Complete or absolute provincial autonomy means complete sovereignty of the government of the provinces (Roomi, 2010).

Pakistan is a federal state. If we explain autonomy in fiscal and political federalism's concept, mostly extremes are discussed. However, according to the original concept that was stated in the resolution of 1940, Pakistan was meant to be a federation that consisted of self-governing or autonomous units. As far as the extent of the self-governance of these autonomous units was concerned, except for main areas, every authority was delegated to these units. These four main areas included: foreign affairs, communication, defence and safety, and currency. This is how Provincial Autonomy can be simply explained. The powers delegated to the provinces actually tell about the authority given to each province (Nishter, 2009).

Due to the success of federations in larger countries like Switzerland and America, this system's acceptability has ascended; and hence, several other states like Pakistan, India, etc. emerged as federations. However, for these later states, there have been issues like regional imbalances (hashmani, 2010).

Pakistan, although emerged as a federation but it failed to adopt it as a constitution for many years even after its birth. It actually took nine years to take on a constitution for this state which ultimately led to the weakening of the federal bonds. This drifted apart East Pakistan from the state. Also, the rejection of the demands for the provincial autonomy in the constitution of 1956 and 1962 made the situation worst. The decade of Ayub's regime made Pakistan a highly centralized structure which proved to be a catastrophe. Meanwhile, the terms with the East Pakistan further deteriorated. The state broke up after 24 years as a result of denial for the provincial autonomy (Rehman).

The constitution of 1973 was somewhat flexible and hence brought some recognition for the provincial autonomy. As a result, some dispensations were given to the provinces. However, later the situation got deteriorated and hence the matter was not taken seriously. This denial of the provincial autonomy in the constitution of 1973 made some of the politicians angry. The situation completely changed with the arrival of a new military dictator and during 1977-88, three out of four provinces moved away from the federation (Rehman).

The civilian government in the next decade till 1999 was also not able to get the issue of provincial autonomy resolved and nor did the Musharaf's regime till 2008. Even today, this issue is still unresolved and serious efforts are not taking place in this regard. Indeed, majority population has become rebellious and the issue has become more unstable and explosive; and has now become a danger to the integrity of Pakistan.

The parliament is considered to be the protector of the constitution and hence should seriously work for the revival of federalism. Currently, the country is facing the crisis of failure to satisfy the provinces by appropriate divisibility of resources, delegation of power to the provinces, and failure to identify the provincial rights (specifically for people in FATA and Northern areas) (Rehman).

Historical Background

The debate of the provincial autonomy has been explosive in the 18th amendment because of the fragility of the issue. There are several reasons behind this debate. The reality is that socio-economic growth and expansion is not homogeneous among all provinces due to non-acceptance of the provincial autonomy. Pakistan has gone through a really tough time in 1971 when provincial autonomy was somewhat accepted. A question is posed for the people who are in favour of provincial autonomy that in this currently disturbed political scenario, how they can guarantee that provincial autonomy is the main solution for inequity and injustice (Rommi, 2010).

Provincial Autonomy in Pakistan Resolution

According to the critical analysis of the Declaration of March 1940 by the advocates of provincial autonomy, they state that since Muslim efforts at the time of independence were to create and maintain states that have self-governing units in British India, therefore autonomy should also be given to the provinces. Here is the extract of Pakistan resolution regarding this:

“ No constitutional plan would be workable or acceptable to the Muslims unless geographical contiguous units are demarcated into regions which should be so constituted with such territorial readjustments as may be necessary. That the areas in which the Muslims are numerically in majority as in the North-Western and Eastern zones of India should be grouped to constitute independent states in which the constituent units shall be autonomous and sovereign” (Roomi, 2010).

This resolution was accepted by the Muslim League in 1941 as constitution's part. It made clear that in one Pakistan provincial autonomy was also the resolution's demand.

The main reason for using the term “ autonomy” was that the Muslims should get justifiable representation in the elected bodies of legislation. The British made an unfair distribution of powers in two of the majority provinces: Punjab and Bengal; therefore initially the founder thought it was unfair with the Muslims. However, later he realized that the demand for autonomy would not provide a genuine solution to this issue. He also proved this by his speech in Delhi in 1946's convention.

Despite the fact that in India Act of 1935, the provincial autonomy was introduced, as far as the protection of rights was concerned. However, still the people who support the concept of provincial autonomy argue that Pakistan was considered to be a loose Federation with certain level of authorities given to the provinces. According to Quaid's speech in 1948 at Quetta, he clearly ended provincial autonomy. The relevant chunk from that speech is as follows:

“ It naturally pains me to find the curse of provincialism holding sway over any section of Pakistan. Pakistan must get rid of this evil. It is relic of the old administration when you clung to provincial autonomy and local liberty of action to avoid control-which meant-British control.”

However, first let us have a glance at what the three constitutions of 1956, 1962, and 1973 say about the provincial autonomy.

Provincial Autonomy in Constitution of 1956

Efforts were made for long time duration, approximately nine years, to form a constitution which was then made obligatory on March 23, 1956. It was commonly formed on the basis of the model of Government of India Act, 1935. This constitution of 1956 was very extensive, containing 234 articles, 13 parts and 6 schedules. This constitution formed the federation which was very similar to the Government of India Act, 1935. Federalism in this country had to make opportunity for self account and expression for the provinces.

The process of devolution was endorsed more than Government of India Act, 1935. In contrast to federalism, the 1956 constitution formed a one-chamber or unicameral legislature, according to which there had to be a unitary and centralized structure. The second constituent assembly refused to accept this as a structure and talked in favour of the bicameral system, which was composed of two chambers – upper and lower house. This issue was somewhat resolved when the West Pakistan provinces got merged into a single unit and representation was supposed to be made on equality-basis.

In federal democracy, seats are kept on the basis of uniformity and parity in the house of units' representation and population in the lower house.

However, in Pakistan, the scenario was entirely different. In this country, a different federation was adopted, i. e. the unicameral legislature and equality was the basis for representation.

There were three lists of subject's federal, provincial and concurrent list according to the constitution of 1956, in which the powers were divided between the centre and the provinces. The federal, provincial, and concurrent lists; comprised of 30, 94, and 19 subjects, respectively. The provincial list was the most comprehensive one. Although, it was stated that both the central and provincial government could legislate on the concurrent lists but in case of conflicts, the federal law would have the main authority to resolve the issue. A conflict was created between the powers favouring centralized system and the ones who favoured the provincial autonomy. Both the powers were arguing that the authority and power should be given to the party which they favoured. The supporters of centre asked for residuary powers for centre and supporters of provincial autonomy demanded that this power should be given to the provinces. According to the article 109 stated in the constitution of 1956, the provincial legislatures were given the authority of making laws on subjects that were not mentioned in the three lists stated above. The main and significant financial resources were allotted to the federal authority, whereas, the others with insufficient resources were handed over to the provinces.

The emergency provision of the 1956 constitution, to a great extent, endangered the relations between the centre and federating units. The followers of the strong centre founded the statement that, in time of war or any other emergency, amalgamated and centralized power was compulsory.

It is the duty of the centre to protect the federation. The people who framed the constitution felt a need for such provisions. They vested emergency provision in the federal authority.

Provincial Autonomy in the 1962 Constitution

The constitution of 1956 could not bring any major change in the issues between the East and West Pakistan and could only last for two and a half years. The political atmosphere was further intensified. The new constitution was endorsed on June 08, 1962, which consisted of 250 Articles, 12 parts, and 3 schedules.

The constitution of 1962 was extremely centralized and shortened the sphere of the federating units to a large extent. The fortitude of federation lies in the bicameral system, which, as previously stated too, consisted of lower and upper house. However, just like the constitution of 1956, the constitution 1962 enforced a unicameral legislature. The distribution of power between the centre and federating units under the constitution of 1973 was very simple. It consisted of only one list federal list, and left all other subjects to the provinces.

The centre had the ultimate rights to legislate any parts of Pakistan that related to subjects mentioned in the 3rd schedule of the constitution. There were forty-nine subjects stated in the central list, as opposed to thirty in the constitution of 1956. The federal legislature had the authority to make any law on the grounds of the national interests. Also, they could also make laws on provincial matters when the provincial government gives this authority to federal government, on any subject that is not listed in the third schedule.

Many people regard the constitution of 1962 as the one man show. It resulted in the strong provincial autonomy in East Pakistan and smaller provinces of West Pakistan. Punjab which was the recipient of the muscular centre was the only one which continued to oppose the demands of the provincial autonomy demands. The constitution of 1962 destitute the Bengalis of any contribution in the matters of the decision making process on initial social, economic and political matters which consequently brought in the immense and gigantic movement of autonomy in East Pakistan demanding that the centre should only have defence, foreign policy and currency and the rest of the powers should be delegated to the provinces. The military operation against the people of East Pakistan to hold back the movement for highest autonomy resulted in the increase of liberation movement which ultimately gave birth to Bangladesh.

Provincial Autonomy in the Constitution of 1973

The tragedy of East Pakistan now called Bangladesh sent a gesture of hopelessness throughout the remaining Pakistan. Yahya Khan resigned and requested Mr. Zulfiqar Ali Bhutto to form government because he was the leader of majority party in West Pakistan. The gruelling task before Bhutto was to constitute a new constitution for Pakistan. There was broad contract among all political parties that the future constitution should be formed on the basis of the principle of parliamentary democracy. There were only a few parties who preferred a loose federation with greater provincial autonomy.

On 17 April 1972, Bhutto appointed a constitutional committee which comprised of twenty five National assembly members in order to outline a

version of constitution. After almost two years of extended discussions in the national assembly, an accord of opinion was reached at and a new constitution was devised, which was made obligatory on August 14, 1973. In the Constitution of 1973, a promise was made that power would be gradually delegated to the representatives of the smaller provinces. This constitution was comprised of 280 articles, 12 parts and 6 schedules.

The Constitution of 1973 brought in, the federation with a bicameral legislature. The federal legislature consisted of two houses; upper house or senate and national assembly. The representation to the federating units in the national assembly was provided on the basis of population whereas in the senate on the basis of equality. Moreover, there was an obvious and lucid division of powers between the central and provincial government in third fraction of the constitution.

There were two lists of powers, federal and concurrent lists. The residuary powers were vested in the provinces. The constitution did not enumerate separate powers for provinces but gave them the powers to legislate on residuary subjects, which are not enlisted either in the federal list or concurrent list. According to a provision stated in the constitution of 1973, the central government was supposed to delegate power and authority to the provincial governments as their agents. Also, this delegation could either be conditional or unconditional.

An important characteristic of this constitution of 1973 was National finance commission. The main function of this commission is to hand out the financial resources between the centre and provinces perpendicularly and

among the provinces in parallel. Before the NFC award the criteria was population only, which the provinces, other than Punjab, were not happy with. Baluchistan, at all times, hard-pressed for influence to be given to its vast territory, and Sindh for the larger taxes its ports, commerce, industry and bank produce. The NWFP wanted consideration for its backwardness. But in the seventh NFC Award this criterion was changed and multiple criteria were adopted instead of population alone. The ratio of other aspects is as under.

After 1973 constitution of Pakistan many issues arose regarding the division of power between centre and provinces. A clash of giving extra authority to provinces in order to have strong federation remained an issue of 1973 constitution.