

# PREREQUISITES OF FEDERALISM: A CASE OF PAKISTAN (A critical Analysis)

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## Abstract

*The purpose of this article is to examine the characteristics necessary for a successful federal structure, especially with reference to Pakistan. The federal system is basically designed for the states having social diversity. In this regard the important factors responsible for uniting or dividing a nation for example, language, religion, political ideology, territorial equality, communication, are taken in account. Moreover, this research will also help to analyze the present political system of Pakistan and examine its validity and utility in accordance with the celebrated federal canons and structure. The establishment of a centralized government in a federal state is highly incompatible with each other. Pakistan is an example of such incompatibility, where a federal state was attempted to establish in presence of a centralized government. A federal state cannot accommodate and sustain centralized governmental system, since both have opposite tendencies. The success of federal system is only guaranteed in presence of equality and separation of powers, on the other hand the success of a centralized system of government is guaranteed only with the maintenance of total control on all the units.*

**Key Words:** *Federalism, Pakistan, Nation, Equality, Cultural Diversity.*

## Introduction:

“ ‘Federalism‘ or ‘Federal government‘ is a very loosely and independently used term which in its general sense represents an association of provinces, states or cantons etc., formed for certain common interests without losing their original independence.”  
(1990:37)

A state in which there are different national groups living together within the same federation and regional state is called the plurinational federation. The Political system of Pakistan is designed on the basis of federal character due to its post independent conditions. “The concept of Pakistan as put forward by the Lahore Resolution of 23 March 1940 visualised a federal state.” (1985:239)

The existence of plural society is a major prerequisite for the adoption of federal government system. The country Pakistan could be considered a state having plural society. The purpose of writing this paper is to find out that whether under the umbrella of federalism, the people of Pakistan got the required system in political realm for which it was adopted. In addition, it will attempt to verify that how such federalism facilitates them.

To answer these queries it is necessary to focus on the foundation principles of federation and federal system with the required conditions for the suitability of its theoretical as well as practical implementation keeping in view that the federation of Pakistan was not created out of an association of states formally independent of each other.

Federalism in Pakistan would not appear to be an outcome of contract or agreement on the part of the constituent provinces similar to that of the American State to create a policy. In fact the country gained its independence from direct colonial rule with much hope for the betterment of its largely Muslim population of peasants and laborers, which has remained unrealized to this day not only economically but politically as well.

Federalism has traditionally been viewed as one of the most ideal institutional devices for the territories which are characterized by a high degree of social complexity. It is a system of Government which involves a certain pattern of relationship between the centre and the provinces. Such a relationship is amenable to adjustments with the changed environmental situations. The political parties, interest groups, public opinion and administrative parties play a vital role in affecting the inter-governmental relations. Due to the impact of the emergent forces and developments, important changes have taken place in inter-governmental relationship even in the countries which are considered to be the traditional homes of federalism. Now questions regarding the regulation and guarantee of certain rights and freedoms, the rules of law and political pluralism, the separation of powers and other limiting mechanisms such as constitutionalism, federalism, as well as the legitimacy of governmental institutions established by means of periodical and competitive elections, are clear attempts to make the modern concepts of liberty, equity and dignity concrete within the public sphere.

The concretization of these concepts has been usually far from easy to establish. At the same time, however, it has been the very success of these historical products, brought about the diverse and not always harmonious liberal, democratic, functional and national perspectives known as liberal democracies, that has underlined the distance between the universal values included within their principles and legitimizing languages and the practical consequences that these have had on specific culturally complex political realities.

### **Importance of National Groups:**

In federalism there is a co-existence between various national groups. Amongst the national characteristics of these groups living together in a given policy, their members recognize themselves as nation because they share some cultural patterns. They also share sense of historical distinctiveness in relation to other groups. They are situated in more or less majority and display a will to maintain their distinctiveness in the political sphere.

All national groups under the umbrella of same political system take the shape of a nation, which is called nation-building. The process of nation-building or integration is essential for the development of a state as a whole. This process has various dynamics and attached deeply with the themes of identity and legitimacy. Raunaq Jahan writes “nation-building requires the creation and concentration of authority and an emphasis on the role of government in the social process.” (1972:02)

All national groups are a part of multi-national state but small groups because of their great numerical inferiority, find themselves governed largely by members of another national group and are increasingly unable to maintain its distinctive identity would have grievances.

Communities do not forget the cultural and ethnic differences amongst them but diversity is not essentially the divisive force. It leads to division when there is a unequal distribution of rights and resources in the society.

Pakistan since its establishment has experienced the communal problems revolving around diversity of language and culture. In this regard Hayes Louis opines, “Pakistan was born out of communal identity, and it is not surprising that one of the main problems confronting the new government concerned communal matters.” (1986:46)

Following factors are accountable for the successful working of federalism:

### **Linguistic Affinity:**

The language has played very significant role in the political history of mankind as well its reorganization process.

In Quebec (Canada) language is the life, as well as the symbol of the French struggle. In political tranquil country of Canada the 1960's witnessed the rapid rise of vigorous movement among French speaking catholic majority in the provinces of Quebec. Therefore political collaboration between different language groups becomes more difficult. In Canada, a nationalism focused on language is the key to ethnic assertiveness and the core of culture identity. It must be remembered that importance of language hardly be denied because the language makes the past and present and links both with the future.

There is no inherent reason why language difference should be divisive in nature. The Swiss now have four languages, India is said to be more than eighteen languages, Nigeria has large array of languages, United States has many languages and Pakistan does also has many languages. The fact is that the trouble arises over languages when the government, on the binding of the strongest provinces or the party attempts to force its language on the whole. The case of East Pakistan can be cited in this regard when on the issue of national language the state was divided into two halves 1971.

**Religion:**

Religion is a major basis for identity and cultural cohesion. Common religion can provide militant cultural identity and a sense of sacred mission, co-existence of different religious communities within the same state is peculiarly difficult. But it is important to note that religious differences are not divisive, so long as there is a reasonable tolerance and the Government does not attempt to stamp out a religion of which it disapproves. Switzerland is an example in this aspect. Although there were great streams between catholic and Protestants, all now live together in harmony even where there is difference between one village and the next. The establishment of Pakistan on the platform of same religion and formation of one nation out of various ethnicities can be cited as the best example of this case.

The nationalism of Pakistan also has its roots in religion, but by the passage of time its sectarian aspect has contributed towards the split of society mainly because of the selfish leadership. Leaders for their selfish interests have used the people of Pakistan to be exploited in the name of religion, since religion is the most sensitive part of an individual's life. Leaders have always interpreted and promoted their own version of nationalism serving their individual interests.

**Ideological Differences:**

Differences in political Ideology play most significant role in strengthening or weakening the federation. This was an important cause of the withdrawal of Jamaica from the federation of West Indies.

Ideology is the proper channel which directs the passage of federation to a successful goal passes through the unity and integration which involves mutual ties and sense of group identity and self-awareness. Federation offers a method of uniting hitherto separate provinces into a new super nation entity by means of a formal constitution, executed as a result of a common political commitment made by the parties involved.

Ideological differences contain deep tendencies of divisiveness; it leads towards the beginning and rise of separatist movements. Ideological unanimity has the potential to ignore the differences of unusual nature; on the other side in case of ideological conflicts it does not consider any kind of commonness.

The societies which are pursuing successfully the national ideologies are positively tolerant of the differences amongst them. In societies where national ideologies are conflicted the differences of different kinds amongst people are very visible and people are sensitive about their sun-national identities.

The power of ideology can be estimated through looking at the Pakistan movement which was conducted on the basis of Islamic ideology and successfully achieved its goal. Ishtiaque Hussain Qureshi in his article on 'The Future Development of Islamic Polity' writes "Muslims were united only by their common allegiance to Islam otherwise they were a mass of heterogeneous people. They had an ideology (idealism) for which they should be prepared to sacrifice their life." (1979: xxxiii)

### **Territorial Equality:**

Federalism stresses the importance of a constitutional instrument setting out the relationship and competence of the federal and local bodies within a defined territorial area. Federal system has also been required the permanence of the boundaries of its constituting provinces. This does not mean that boundary changes cannot occur, as a matter of constitutional law such changes can be made only with the consent of the provinces involved and that, as a matter of political policy, they are avoided except in extreme situations. United State divided Virginia during the civil war, Canada had enlarged the boundaries of its provinces and Switzerland has divided cantons, but in every case at least the formal consent of the constitutional provinces was given.

The given explanation proves that the essential basis and foundation of federalism is equality. Further, in this system the equal system of right position and opportunity is recognized for every province. Under such structure center does not have margin to go against the federal interests.

The distribution of power has always been a crucial issue in the field of constitution making of Pakistan.

Disintegration cannot be avoided when ethnic differentiation is added to regional inequality with its socio-economic scenarios. When in a federation the demands of one province are satisfied and others perceive discrimination against them by authorities, there is a condition of conflict. Even attempts not to discriminate are likely to be misinterpreted, merely because full and equitable participation has been denied to some members of federation. "Admittedly the division of power is indispensable for a federal system in order to ensure its permanence." (1990:70)

### **Communication:**

Communication is the central nervous system of the federal state. Good and free communication system is considered a guarantee for the success and improvement of federation. Direct lines of communication between the public and both the federal and the constituent governments, allow the public to exert direct influence on both governments and permit them to exercise direct authority over common citizenry.

If there is no free communication on the movements of products and persons between the provinces of federation, the federation can hardly grow or may not grow.

Even the poor communication can be a divisive force. A federation where the lines of communication are not reliable will face the serious problem to keep the federating units in touch. Federalism in Pakistan even as theoretically stated in the constitution, appears to suffer from serious limitations when examined in the light of universally recognized principles of federalism.

### **Conclusion:**

Considering the mentioned important prerequisites of federalism, it has become necessary to critically examine the political situation of Pakistan immediately after the independence. Since its establishment, Pakistan has been facing the challenge of realization of a genuine federal system which failed to meet expectations of the federating units. Unfortunately, the adopted federal system has not yet emerged successfully because of many reasons.

Pakistani society is highly diversified and in order to reconcile the centripetal and centrifugal forces, it is necessary that the system of federalism should be strengthened on sound foundations. From the day one, the country adopted a highly centralized system of government which resulted in number of crises. The small federating units would always complaints of deprivations due to injustice in provincial autonomy. This has given birth and rise to the regionalist tendencies.

The concept of a federal system suggests a kind of a government in in two layers in which central and regional governments work in a balanced way while maintaining their autonomies. The federal system and a centralized government are the incompatible to each other in political arena. Pakistan has been experiencing through this incompatibility since the very beginning, which has hindered the establishment of relationship based on trust amongst the federating units. Syed Jaffar Ahmed writes, “But a genuine federal constitution was never formed in Pakistan, and hence, though a number of constitutions were promulgated in the post-independence period, they failed either to come up to the expectations of all regions or provinces or to prevent the subsequent federal crises.” (1990:42)

Act of 1935 was adopted as interim constitution, known as QUASI FEDERAL statute with mainly unitary characteristics and designed by a colonial power which compelled to provide limited autonomy to its native subjects.

Unfortunately, under these constitutions a highly centralized federal system established in Pakistan. The government of India Act provided adequate provisions and process to ensure full predominance of the central authority. These provisions and process have been fully utilized to its maximum limits.

The central government maintained its hold in the legislative, provincial, financial, administrative and political spheres; such system could hardly be described as truly federal.

The political control of the central authorities by appointing governors who held office at pleasure of the head of states was considered and proved as major intervention in provincial autonomy of the provinces. The central government has been exercising pressure and influence in provincial political affairs through its power of appointing and dismissal of provincial cabinets through the governors. Whereas this has been history of the federal constitutions that the federal constitution has certain major characteristics, the most notable of which is the distribution of powers between two sets of governments guaranteed by the constitution itself.

The actual mode of distribution of powers varies in different federal systems. If the comparison of Pakistan's constitution is made with the constitutions of established democratic countries, there is no match. In fact, the constitution of Pakistan has been changed with more ease and less care. The only necessity and criteria justifying such a change has been the ambition and the convenience of those in power.

A federation cannot exist or survive without a spirit of partnership and co-operation between the provinces and centre. Equitable treatment and mutual respect are the basic requirements for the success of any federal structure.

Considering the geo-political and socio-economic structure of Pakistan, the diverse cultural, traditional and distance of one wing from the other, Pakistan could only survive through democratic institutions, where power could be shared by the people of the two wings on an equitable basis. In Pakistan the politicians who advocated for centralized administration, only served their own interests and the class interests of the ruling elite. In the process it was not only East Pakistan but the other smaller provinces like Sindh, North West Frontier and Balochistan also went through the same process of neglect and exploitation. East Pakistan's position was somewhat different but the basic principles of federal structure were applicable to all the provinces.

The only notable improvement over the 1935 Act is the distribution of legislative powers between the center and provinces was in respect of the residual matters. The article 104 of the 1956 constitution provided that this power would be enjoyed by the provincial legislature subject to article 107 and 108 of the constitution. But in case of emergency, parliament could make laws in any provincial matter. In order to resolve disputes between the federal government and the provincial government or between two provinces or between the center and one or more provinces, which were not within the jurisdiction of the Supreme Court. Constitution provided that any of the government involved in such dispute could refer the matter to the Chief Justice of Pakistan who would appoint a Tribunal to settle the dispute.

In the administrative relationship between the center and the provinces, the provinces were subservient to the center. There had been more consolidation of power and authority in the hands of the federal governments. It was the constitutional duty of the federal government to protect each province against external aggression and internal disturbance and ensure that the government every province was carried on in accordance with the provisions of the constitution. The executive authority of the province would be exercised in such manner as to ensure it complied with the Acts of Parliament and the laws applicable to the province and also not impede or prejudice the exercise of the executive of the Federation. The federal government was entitled to give direction to a province with regard to the duties of the provincial authority. The constitution also gives sweeping powers to the federal government to exercise control and to give directions to a province, even in normal times. The provincial governors could and did play, an important role in provincial politics, being appointed by the President and holding office during his pleasure in provincial politics.

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