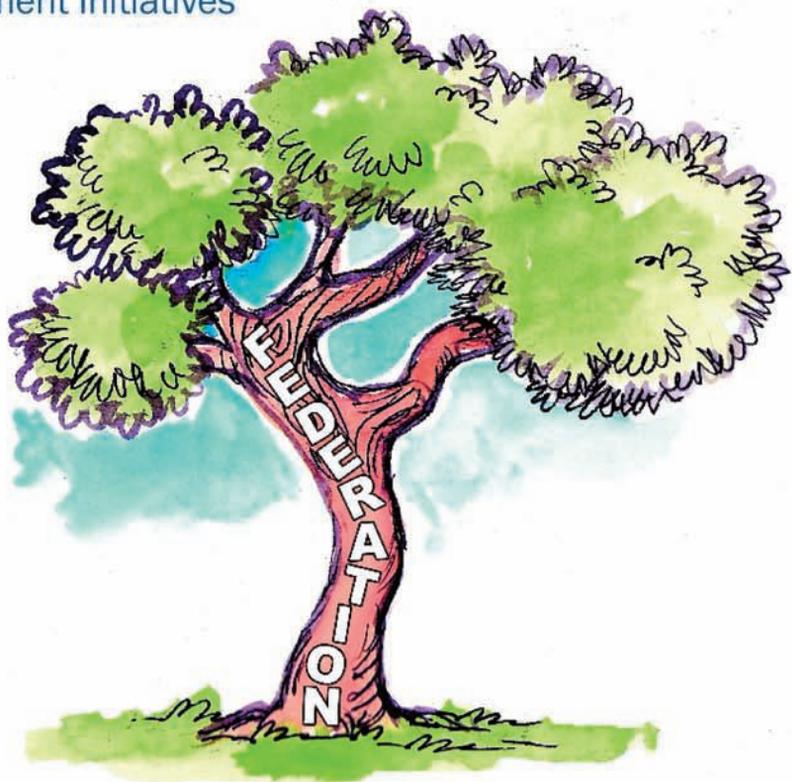




Centre for Peace and  
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## Federalism, Provincial Autonomy, and Conflicts

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STIFTUNG **FÜR DIE FREIHEIT**



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Zubair Faisal Abbasi



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## PREFACE

The history of federalism can perhaps be traced to the days of the Holy Prophet (PBUH) when he established the first Islamic state in Madina in which the Muhajrin, Ansar and Yahud communities lived together, enjoying equal rights and respecting each other's rights. This perhaps could be seen as the loosest form of what later came to be defined as federalism. Today 28 countries across the world practice federalism; no less than 40 percent of the world's population resides in these federal states. Some of the countries that practice federalism are: Argentina, Australia, Austria, Brazil, Canada, Ethiopia, Germany, India, Iraq, Pakistan, Spain, South Africa, United States of American and Venezuela.

Pakistan has a chequered constitutional history. It took us nine years after independence to present the first constitution in the Constituent Assembly. In 1954 the assembly was dissolved by the Governor General without any constitutional mandate leading to instability in the political system. The constitutions of 1956 and 1962 were abrogated while the Constitution of 1962 violated the democratic principles of one-man one-vote as well as adult franchise and formulated a flawed federal structure through a centralized federation with a unicameral legislature.

The over centralization of the Pakistani federation resulted in the largest province seceding from the federation. As a nation we failed to learn from history. Although provinces were revived and One Unit was abolished, yet provinces were denied their political, economic and cultural rights resulting in polarization between the federation and provinces on the one hand and amongst the provinces on the other.

It was in this backdrop that the 1973 Constitution came into existence with consensus amongst all political forces within parliament and provinces. The constitution promised a federal parliamentary system with provincial autonomy in which fundamental rights and the independence of judiciary would be ensured. Unfor-

tunately the Constitution of 1973 was not implemented in letter and spirit and military dictatorships led to further centralization.

This misbalance in the federal structure has been corrected through the Constitution Eighteenth (Amendment) Act, 2010. Pakistan is now a participatory federation with joint ownership of natural resources.

It is a paradox that with the exception of the Constitution of 1962, all constitutional arrangements including the Government of India Act, 1935, Constitution of 1956 and the Constitution of 1973 are essentially federal in character though in practice a centralized form of government prevailed in the country. Repeated derailment of the democratic and constitutional process heightened tensions on issues of fiscal federalism, provincial autonomy and discretionary powers, particularly those vested in the office of the President of Pakistan.

The Eighteenth Amendment has tried to address these issues keeping in view Pakistan's historical context, its polity and its objective conditions. In other words the Eighteenth Amendment throws up a Pakistani federalism that learns from the experiences of others but is rooted in the Pakistani reality. The present study is interesting as it traces the history of federalism and shows the diversity of the federal arrangements. It also discusses the issues of ethnic representation and managing diversity in a state. It also examines the 18th Amendment in the light of devolution and reviews the implementation process which has devolved many ministries and functions to the provinces. This has been made possible as the Concurrent List has been repealed. The Amendment has provided ownership and participation in policy and management of natural resources, increased the legislative powers of the provincial assemblies including those on taxation.

In conclusion, civil society organizations, journalists, politicians and other interest groups have a role to play in managing conflicts and creating a home grown federalism that is rooted in local polity and ensures unity in diversity.

Senator Mian Raza Rabbani  
Chairman  
Implementation Commission

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Zubair Faisal Abbasi



## INTRODUCTION

The All India Muslim League along with other significant political actors demanded a federal structure in India to run the affairs of the state (Sayeed, 2009). Many demands from the Muslim League to solve communal issues was to compensate for the inadequacy of an evolving majority form of democratic system. Such demands were for a consociational regime which could accommodate minority concerns in a democratic federal system. The Government of India Act 1935 had provisions of a federal structure with provinces having a List of Subjects to deal with. It was an improvement on the earlier system of “diarchy” which was introduced in the Government of India Act 1919. The resolution of 1940 adopted by the All India Muslim League had also argued for a greater role of provinces in systems of governance.

After the creation of Pakistan the idea of national integration proved a drive towards a federal structure though having unitary-type characteristics. To begin with, the Government of India Act 1935 was adopted as a working constitution with some amendments while the first constitution was introduced in 1956 which worked for two years. This constitution like that of 1962 was federal in nature. While constitutional arrangements have been federal, the ethno-linguistic fissures surfaced with full force in 1971 which ended in separation of East Pakistan in 1971 forming a new country – Bangladesh. It is thought that had there been consociational regime

in place which could accommodate minority concerns in army and bureaucracy-led institutional arrangements, the federal system could hold together the two wings i.e., East and West Pakistan.

The 1973 constitution envisages a federal system with provinces having more financial and administrative powers as compared to the previous constitutions. It is also argued that the 18th Amendment to the constitution in 2010 will go a long way in making democratic federation hold together the units as well as unleash the economic development potential of the state. A good way could be to implement the promises made in the 18th Amendment Act 2010 and try to establish consociational regime so that the shortcoming of majoritarian decision-making does not adversely affect the ethno-linguistic and religious cohesion. Exploring the issues related to fiscal, political, and policy autonomy in Pakistan's federalism, this research explores the question of federation and conflict in Pakistan.

The first chapter is about the concepts of federalism and primarily narrates the theory of federalism as well as consociationalism. It draws from a variety of literature and shows that federalism and consociationalism are mutually supporting arrangements and in ethnically diverse societies provide the glue to hold together federating units.

The second chapter explores federalism and conflict dimensions. It brings together country experiences such as India, Indonesia, Malaysia, Nigeria, Sri Lanka and Iraq. It also shares insights on the fact how consociationalism has been a successful case to make federalism a viable option for governance.

The third chapter digs into the history of federalism in Pakistan as embedded in different Acts and constitutions alongside the amendments to the constitution of 1973. It argues that it appears that the democratic regime in Pakistan, with the 18th amendment has tried to rectify the damages done to the constitution and federal structure. It should, however, not create a sense of complacency. Pakistan needs to bring consociational regimes so that the voices of the excluded segments of society are heard and mainstreamed in the political set-ups.

The fourth chapter revolves around federalism, identity and conflict in Pakistan. It argues that though Pakistan is not in extreme danger of losing its collective identity but if unresolved some issues related to regional disparities may become thorny to the extent that a secessionist movement gathers steam in Balochistan.

The fifth chapter espouses the promises, powers and practices under the 18th Amendment Act 2010. It argues that there are provisions now in the constitution which create demand for consociational regimes to protect the rights of under-represented ethnicities in the institutions which matter in decision making. This is a time when the Baloch and Sindhi sentiments should be accommodated in a better way to let the federation be strengthened.

The overall message of the research is that though democracy and federalism is necessary in multiethnic societies such as Pakistan, there is a strong need of consociationalism so that minorities are mainstreamed in decision-making processes and a sense of harmoniously existing multiple identities can flourish. In the final analysis Pakistan needs to go beyond the “singular-affiliation” view of individuals of a society which has been associated with violent conflict (Sen, 2007).



# I. FEDERALISM

Federalism as Tekena Tamuno observed is a form of government where the component units of a political organization participate in sharing powers and functions in a co-operative manner though the combined forces of ethnic pluralism and cultural diversity, among others, tend to pull their people apart (Tamuno, 1998, pp. 13).

To accommodate diversity and ensure political and social participation, federalism offers a broad range of institutional arrangements that can help strive for autonomy to exercise political action and accrue benefits while maintaining identity for political groups (Naseer, 2007). Some political scientists argue that federalism is the most suitable term for the processes in which separate political organizations create agreements for ironing out differences and disputes, developing solutions, and establishing platforms for joint policy actions to solve joint problems (Ariyo, 2003).

Under federalism, the participating units must show an urge to cooperate (as coming together) for mutual advantage along with a strong penchant to preserve socio-political, ethnic and regional identity and some space for political action. These are intricate propositions which can make segments of society cohesive as well as divergent enough to pave way for secessionist tendencies. Pakistan has actually experienced secession in 1971 (Naseer, 2007).

## 1.1 Concept of Federalism

Federalism as a political system is primarily concerned with the idea of developing a manageable system of governance thus establishing an orderly arrangement among different tiers of government in a nation. Establishing a manageable and accommodative system is the real test for federalism which should ensure that the general and regional governments coordinate with each other while remaining independent. In a way, federalism is about division of power in a well-structured way (Ariyo, 2003).

Another body of knowledge argues that a federal political order is the genus of political organization that is marked by the combination of shared rule and self-rule. Therefore, federalism is the theory which discusses the principles of dividing authority and power amongst the participating groups, be those states or associations or common institutions. In this sense, a federation is composed of a common government along with a territorial division of power between constituent units called provinces, cantons or states.<sup>1</sup>

Representation of states in central government policy-making is part of the essence of federalism. However, there are exceptions in rules in theory and in practice. For example in Canada, the provinces do not carry veto power to strike down policies but the federal and provincial governments are locked in a system in which the federal government has to sign formal, contractual agreements with the provinces passing through a lengthy process of striking bargains. Likewise in Russia, Spain, Germany and Australia formal policy-specific multilateral bargaining bodies including the states and the central government has evolved. this is especially true of Germany and Australia (Rodden, 2004).

Rodden (2004), states that federalism is rooted in the Latin word foedus, which means covenant. Foedus used to describe cooperative and contractual agreement between states usually for defence purposes. It connotes maturity under which the parties had to fulfil obligations to one another.

Federalism has various definitions as discussed above. However, authority and legitimacy lie at the helm of understanding the concept of federalism. It is a process

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<sup>1</sup> <http://plato.stanford.edu/entries/federalism/#Tax> (Last Accessed: on June 20, 2010)

through which authority is distributed and redistributed, structured by a set of institutions. It seeks cooperation from the subunits such as provinces and states to create and implement decisions and activities (Rodden, 2004, p. 489).

## 1.2 Modes of Federalism

There are two major modes of federalism in which the concept is put in to practice. The first mode is called dual federalism. Under this modality the constitution is designed to create two separate and independent tiers of government. The relationships are mediated and spheres are defined by clearly demarcated areas of responsibility. The second is the cooperative federalism. This modality takes various parts of the government as part of single government system. It works through cooperation between various levels of government (Ariyo, 2003). The various levels of governments are characterized more by cooperation and shared functions than by conflict and competition (Ariyo, 2003)

## 1.3 Evolution of Federalism

Human beings are dependent on one another for living despite being independent as individuals. To live a more meaningful and comfortable living they require social ensembles such as associations and community organizations. Such organizations provide political power, legitimacy and a separate sphere relative to other associations for pursuits of collective goals and mutual benevolence. This fact forms the building block of federal political arrangements in which decisions regarding each member could be taken.

For example, David Hume (1711–1776) in Idea of a Perfect Commonwealth has been in favour of a federal arrangement. He wanted member units to enjoy multiple powers and partake in central decisions, but their laws and court judgments could always be overruled by the central bodies. Though not federal in the strict sense of the term, he held that a large system would do better than small cities in preventing decisions based on intrigue, prejudice or passion against the public interest <sup>2</sup>.

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<sup>2</sup> <http://plato.stanford.edu/entries/federalism/#HisFedWesTho> (Last Accessed:: June 20, 2010).

It has been argued by researchers such as William Riker that modern federalism has been the result of two main factors. One is defence and the other is voluntary bargains. However, despite the complexities of colonial rules and conquests, the modern federal system remains distinct from the unitary system in which the units are not required to cede authority to the centre without safe-guards. The credibility and legitimacy of a federal arrangement appears to be based in the constitution which protects the autonomy of the units and presence of constitutional court (Rodden, 2004; Ward and Ward, 2009).

The fact is that federalism is largely a product of institutional incentives arising from bargains and safeguards. It has been argued that Germany, Brazil and the United States, carry qualities of a strong federal system. However, there are some countries whose credentials are challenged owing to the authority of the centre to dismiss provincial government. For example in India, the central government can unseat a government but this power has been used with diminishing frequency over time without constitutional change (Rodden, 2004).

However, it must be noted that there emerge issues in which the small states insist on representation schemes based on territory to affect decision-making processes while large states argue for population-based representation. The safeguard of interest especially if the social groups are divided on ethnic lines, may result in the solution finding capacity of strict federal systems becoming compromised. This specially happens under the majority based democratic regimes. This aspect takes us to another domain where federalism and consociationalism<sup>3</sup> can be contrasted and compared.

## 1.4 Federalism and Consociationalism

Interest of political scientists increased during the late 1950s and 1970s, around the concept of “non-majoritarian democracy” which was either thought of as fed-

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<sup>3</sup> A consociational state though has major divisions along ethno-lingual and religio-ideological lines but none of the groups and divisions large enough to form a majority group. The state manages politico-social stability owing to an effort of building consensus through genuine and meaningful consultation. Usually these are elites, a select number of people, in major social groups who negotiate. A good contrast of such consociational states is contrasted with states with majoritarian electoral systems (Elazar, D. J., 1985).

ederalism as distinct from consociationalism or being part of the same streak of thinking which tries to stabilize states while accommodating minority interests (Lijphart, 1985; Ward and Ward, 2009).

The similarities between federal and consociational polities are enormous. Both federal and consociational involve the systemic building of more substantial consensus than in simple majority systems. Under the consociational regime majority rules but the system is designed to generate broader consensus than possible in simple majority systems. (Elazar, 1991; Lijphart, 1985). However, a federal structure can be majoritarian and non-consociational which makes federalism becoming less accommodative than needed. Pakistan is an example of non-consociational federalism (Adeney, 2009). In another sense, both federal and consociational regimes can be undemocratic. Lebanon is one example of such a system. While before the civil war the consociational regime was working, its constituents were governed by oligarchies of traditional notables drawn from a handful of ruling families (Elazar, 1991).

As far as a legal-structural approach to federalism is concerned, is replete with the concepts like arenas, planes, spheres, tiers or levels of government, each endowed with independent legitimacy and a constitutionally guaranteed place in the overall system. However, consociational regime is thought to be more informal which acknowledges the presence of multiple social identities and groups around ethnic, cultural and religious lines (Elazar, 1985; Elazar, 1991).

Having discussed the basic ideas of federalism, and consociationalism, the next chapter will discuss federalism and conflict and address the issues with literature from country case studies.



## II. FEDERALISM AND CONFLICT

The role of federalism in containing conflicts and generating viable structures which can accommodate political and economic interests of territorially concentrated ethnic groups requires deeper investigation. The results are at best mixed. The collapse of Soviet Union, Czechoslovakia, and Yugoslavia has created a situation in which the effectiveness of constitutional federal structures has been questioned. Some scholars have argued that democratic deficit in Communist countries as well as federal systems, which were organized around national groups, promoted nationalist movements to their eventual fall as federations (Bunce, 2004).

On the contrary, some scholars while anatomizing the pathology of federations argue, it is not so much because they are federations that countries have been difficult to govern but that it is because they were difficult to govern in the first place that they adopted federation as a form of government (Watts, 1999, pp. 110–11). However, there are research studies which argue that federal systems of government have been better than unitary systems at eliminating violent conflict (Amoretti and Bermeo, 2004, pp. 475–7). With this background, this chapter will examine the federalism and conflict in some countries and whether it was successful in “holding together” of the federal states despite diversity along religious and ethnic lines (Stephen, 2004)

## 2.1 India: Federalism and Conflict

It is argued though India is a home of cultural diversity yet it retains a discernable pattern which shows the strength of cultural experience and coexistence of diverse communities and identities. However, cultural diversity and social heterogeneity carry seeds of potential conflicts which look like wheels within wheels kind of pattern (Sen, 2007). In fact, India has witnessed ethnic conflicts despite presenting a picture of unity and diversity, (Muni, 1996; Tillin, 2007). The ethnic diversity can be seen in the table 2.1.

**Table 2.1**

**Religious Demographics of India's States in 2006**

Group (absolute majority of state's population)	%Pop.	Number of States	% of states	Difference
Hindu	81.4	22	78.5	-2.9
Muslim <sup>1</sup>	12.4	1	3.5	-8.9
Christian <sup>2</sup>	2.3	3	11	-8.7
Sikh <sup>3</sup>	1.9	1	3.5	-8.9
Others	2	0	0	-2
No overall control <sup>4</sup>	n/a	1	3.5	n/a
Total	100	28	100	n/a

1. Jammu and Kashmir

2. Meghalaya, Mlandizoram, Nagaland

3. Punjab

4. Arunachal Pradesh

Source: (Adeney, 2007).

The functioning of federal system in India occupies a central position in debates on national integration and ethnic diversity. Fearing the perpetuation of disruptive and disintegrative forces which led to the partition of India, the early India political leadership tread on the path of having a Union (Muni, 1996). Dr. Bhimrao Ramji Ambedkar while sharing the draft constitution said that though India was to be a federation for "administrative convenience", the emerging federation was not the result of an agreement by the states to join in a federation (Adeney, 2007; Muni, 1996). No right to secede was accorded to the state and in fact unlike the American

and former Soviet constitutions, the Union of India was expected to control and eliminate any secessionist pressures (Muni, 1996). In fact, the Union of India has been under direct intervention from the centre as shown in the table 2.2. It has been argued that India remained more conflict prone than Pakistan but it was Pakistan which experienced secession in 1971 (Adeney, 2007).

**Table 2.2**

**The number of days under President's Rule for the states and Union Territories of India , 1951 - 2005**

	Name of State	Days Imposed	No. Times Imposed
1	<b>Punjab</b>	<b>3518</b>	<b>9</b>
2	Pondicherry	2699	6
3	<b>Jammu and Kashmir</b>	<b>2351</b>	<b>3</b>
4	Manipur	1930	10
5	Uttar Pradesh	1705	10
6	Kerala	1694	9
7	<b>Nagaland</b>	<b>1475</b>	<b>3</b>
8	Gujrat	1239	5
9	Tamil Nadu	1137	4
10	Assam	1097	4
11	West Bengal	1064	4
12	Bihar	1009	9
13	Orissa	752	7
14	<b>Mizoram</b>	<b>703</b>	<b>3</b>
15	Karnataka	648	4
16	Rajasthan	561	4
17	Madhya Pradesh	524	3
18	Andhra Pradesh	459	2
19	Goa (incl. Daman and Diu)	445	4
20	Himachel Pradesh	406	2

21	Sikkim	347	2
22	Haryana	313	3
23	Tripura	149	3
24	<b>Meghalaya</b>	<b>117</b>	<b>1</b>
25	Meharashtra	113	1
26	<b>Arunchal Pradesh</b>	<b>76</b>	<b>1</b>
	Total	26531	116

Source: Data adapted from Lok Sabha Secretariat (1996), H. M. Rajashekara (1987, 638–40), Rajya Sabha (1996; 1997; 1999a; 1999b; Dawn (2002), V. Venkatesan (2005) and Onkar Singh (2005)

The ethnic scene of India, however, had diverse kind of ethnic tensions. It has been argued that despite the “Indianess” the linguistic reorganization of the states created political space for expression of exclusive identities based on territorial segmentation. Punjab, Kashmir, Assam are given as some examples of conflict formations which Indian federalism has either failed or partially succeeded in addressing them to the satisfaction of minorities. In fact, some scholars have argued for redrafting of federal relations while others have argued to focus more on the substantive and operational parts of the federal schemes to make the institutional arrangements function rather than rebuilt (Muni, 1996). In this line of thought, Ashis Nandy (1992) argues that the Indian public culture can accommodate the Other with which it may stay in conflict (Tillin, 2007).

However, it is also claimed that while India accommodates a large population, it has more or less been successful in addressing the linguistic identities but its record is less impressive on handling the religious questions. Based on this observation, researchers have argued that in order to promote security and stability under federal structure it is important to promote inclusion both at the centre and the units specially where alternative religious majority such as Muslims are present (Adeney, 2007).

## 2.2 Indonesia and Malaysia: Federalism and Conflict

Indonesia has over the years strived more for a unitary state than being a federal one despite being a multi-ethnic country. Empirical researches on the post-revolu-

tionary regimes in Indonesia show that the penchant for a political and social uniformity has given a push to regional, ethnic and even ideological tensions. However, the democratic solution to Aceh problem might have deep effects on the character of the state. Historically speaking, the radical sections of the national movement in Indonesia did not show interest in federalism as a solution to solve the issues of national integration. Around the leadership of Achmed Sukarno and Mohammad Hatta, the regime believed more in revolutionary unity for assertion and ummat (Islamic community) than accommodation of ethnic diversity. It has been argued that because post-revolutionary Indonesia was not practicing democracy so federalism also could not take roots since some degree of democracy is required to listen to the dissenting voices and accommodate them in federal structures (He et al., 2007).

Indonesia, at the same time, has tried to address the conflict dynamics with decentralization which is a cardinal feature of many federations. The impact of decentralization is twofold. At one level it has tended to address the intergroup inequalities especially in the areas where ethno-religious groups were excluded from the mainstream decision making processes of the government. However, administrative restructuring has also created new dimensions of identity and power politics in which previous minorities have got "safe-havens" as majorities. The emergence of new-majorities requires that attention should be given to ensuring appropriate conflict management mechanisms (Diprose, 2009).

In comparison with Malaysia which took a more evolutionary path trying to formulate a federal structure, the performance of Indonesia in deciding the future of Aceh and East Timor, and perhaps also of Ambon, Papua and parts of Sulawesi and Sumatra is less impressive. At the same time, the Malaysian experience shows that federal structure can be more effective in preventing a violent outcome of ethnic diversity. However, it is also possible that the revolutionary past of Indonesia with violence being an instrument of social and political dynamics has played a greater role in low performance in terms of conflict management as compared to Malaysia. In Malaysia, geographically separated communities have had varieties of monarchies who gradually accepted the authority of Kuala Lumpur among them. It may also be argued that superior economic performance of Malaysia has something to do with a good record of conflict management (He et al., 2007).

### 2.3 Nigeria: Federalism and Conflict

The oil-rich Nigeria is categorized as a dysfunctional and a failed state which could not contain violent conflict and internal disorder. However, it has crafted a federal structure after the 1967–70 civil war. It has become a 36-unit multiethnic federation emerging from conflict prone ethnic regions. However, as compared to other countries of Africa such as Congo and Sudan, the success of Nigeria in managing a federal structure is quite significant (Suberu, 2009).

The federal structure of Nigeria has given the country much needed stability which can accommodate inter-regional divergences and promote social harmony by neutralizing centrifugal forces. However, the country is mired in 'resource curse' in which the elite-capture has paved way for local level conflicts and antagonisms, with strains on national unity. This has reduced the oil production and increased unemployment with lowering of socio-economic development prospects (UNDP, 2005). It has been argued that Nigerian experience has practically ceased to exist as a model for conflict management and the governance of diversity elsewhere in Africa and the developing world (Suberu, 2009).

As mentioned earlier, it must be noted that the federal structure has successfully held together the state and provided a framework to accommodate diversity of ethnic identities. However, the federal system in Nigeria is not perfect. Both Canada and India took time to have relatively robust and stable democratic federal structures. In the case of Indonesia, the absence of democracy has had a toll on federalism in Nigeria. Some researches argue that after venturing on the path of democratic system (as post-military dispensation), Nigeria, owing to competitive electoral democracy, become a model of successful federal governance for other polities and divided societies in African continent (Suberu, 2009).

### 2.4 Sri Lanka and Iraq: Federalism and Conflict

A large body of research shows that for institutional arrangements of federalism to be effective in resolving conflicts and holding together the units, there are pre-institutional arrangements which have to be in place. Such pre-institutional arrangements must address the question of political justice so that federalism eliminates chances of violent secession (Cameron, 2009).

It appears that Sri Lanka and Iraq have been actively pursuing federal models especially during the recent years. The Sri Lankans tried it more vigorously during the 2002–05 peace negotiations with Liberation Tigers of Tamil Eelam (LTTE). Iraq is also trying to push for a constitutional development based on federal structures.

Taking the example of Sri Lanka, it is argued that had there been a consociational form and practice which could include the Tamils, the secessionist violence of the Liberation Tigers of Tamil Eelam (LTTE) which broke out within a unitary state might not have taken place. Sri Lanka, until very recently with a total victory over the LTTE, had been being managed as two scorpions in a bottle. Another country which is witnessing violence which needs consociationalism before getting into robust kind of federal arrangement is Iraq. Federalism or not, the sad history and deeply divisive political culture in Iraq is of critical importance. It appears that pre-institutional conditions such as political and economic support system are deficient in both countries. Under such circumstances, federalism may be pitched on the edge of failure (Cameron, 2009).

## **2.5 Federalism, Regional Autonomy and Conflict – A Case for Consociationalism**

It is argued that fiscal and political decentralisation and regional autonomy provides necessary trust building amongst ethnic nationalism. This type of combination is said to give a flavour of “heterogeneous policy tastes”. However, there are perspectives which claim that federalism and decentralization increase the ethno-regional rebellion and secessionism (Brown, 2009). The cross country regression analysis presents a much diverse picture. It appears that “shared-rule” features of decentralization and regional autonomy have strong protest-reducing outcomes. Researches also show that if ethnic differences are high and politicized and where “federal bargain” type solutions are difficult to achieve, then decentralization may result in greater ethnic mobilization and may lead to secession. Such ethnic mobilizations need special autonomy for ethnically distinct regions to contain violent conflict (Brown, 2009). Some empirical researches point out to institutional effects of federalism – and often dramatically – with the underlying social makeup of societies. It has been argued that the degree to which politicization of ethnicity and inequality occurs, it has some relationship with increase in likelihood of ethnic conflict and stress on nation state (Bakke and Wibbels, 2006).

However, it must be noted that not all plurilateral federations tend to fail. There have been successful federal states. It appears that states which are democratic and have tendency to establish rule of law, may also try to be economically viable. In addition, it also matters that whether the units have voluntarily decided to join the federation. Some researchers also suggest that demands of minority self-government must be addressed sooner than later to avoid conflict under federal structures. In addition it also matters whether a federal state has a dominant community which makes it a stable structure (McGarry and O'Leary, 2009).

It has also been argued that in order to contain violent conflict reliance on federal bargain is not enough. There is a need of strong consociational practices particularly at the level of the federal government. This is necessary to stabilize federations and is more important than having a vibrant democracy because there are limits to non-consociational federalism and it cannot prevent secessions (Adeney, 2009; McGarry and O'Leary, 2009).

There are some good examples which suggest the success of political systems which work on a consociational basis. These countries include Belgium, Lebanon, The Netherlands (from 1917 until 1967), Switzerland, post-independence Singapore and Nigeria. In lieu of this the European Union is also said to be consociational democratic arrangement. Though ethnic quotas have not been accorded but the Post-Taliban Afghanistan's political system is also a step towards consociationalism.

Having discussed the experiences of federalism in other nation states, the next chapter explores the history of federalism in Pakistan. It tries to begin discussion from the pre-partition constitutional environment.

## III. HISTORY OF FEDERALISM IN PAKISTAN

*The theory of Pakistan guarantees that federal units of the National Government would have all the autonomy that you will find in the constitution of the United States of America, Canada and Australia. But certain vital powers will remain vested in the Central Government such as monetary system, national defence and federal responsibilities.*

M. A. Jinnah (Quaid-e Azam), November, 1945

### 3.1 Federalism: Towards 1947

Knowing that “federalism is a form of government in which powers are divided between the central government for the whole country and governments for parts of the country, better known as federal units” (Kundi and Jahangir, 2002, p. 23), the following discussion briefly traces the history of federalism in Pakistan. The discussion will present the situation before and after the partition.

Although Pakistan and India went through similar colonial experiences and also share a pre-colonial cultural heritage, the two countries have had different kind of experiences with federalism. Pakistan, emerging out of the colonial apparatus with Muslim League and other parties demanding federal structures fiddled with the

Presidential to Parliamentary to Martial Laws and a hybrid-like system between Presidential and Parliamentary hence eventually tilting the balance of power in favour of the President with 8th and 17th amendments in the constitution of 1973 (Naseer, 2007). The 18th amendment is said to have arguably empowered the Parliament again (Jillani, 2010; Kundi and Jahangir, 2002).

It has been argued that the British Raj created a special type of federal system in the sub-continent. The Decentralized administration was working under the vice-regal system. The Mughals also had the provincial system in place albeit not as strict administrative set ups. The British Raj made provinces more formal units of administrative design (Naseer, 2007; Sayeed, 2009).

The history of demand for federalism started much early with both the Muslim League and the Indian National Congress joining hands for the cause. In fact, the first constitutional reforms known as Minto-Morley Reforms 1909 were carried out responding to the demand for a separate electorate to make room for Muslims to elect their own representatives. Later reforms such as those under the Montagu-Chelmsford Reforms in 1919 also coincided with major political parties demanding larger share in Central Legislature under the Lucknow Pact 1916.

However, the political demands were not addressed adequately by the Raj which led to the All India Muslim League demanding greater provincial autonomy through resolution in 1924. The demand for federalism and provincial autonomy was later made more politically robust under the famous 14 points by Quaid-e Azam which were in response to the Nehru Report (Kundi and Jahangir, 2002). Not later than 1930, the Allahabad address of Sir Allama Muhammad Iqbal articulated the federal vision of the Muslim League and voices were raised for autonomous states where Muslims were in majority (Kundi and Jahangir, 2002; Sayeed, 2009). Interestingly, during the debates on constitutional safeguards for rights of ethno-religious minorities Muhammad Ali Jinnah argued more for a considerable autonomy for the provinces. It was one of the reasons that Muslim league passed a historical resolution in 1940 at Lahore in its annual session and maintained that “the federating units of Pakistan would be autonomous and sovereign” (Mushtaq, 2009).

It has been argued that a large segment of the principles of federalism were taken care of in the 1935 Government of India Act which incorporated recommendations of the Simon Commission and the Round Table Conferences held in 1930 and

1931. However, it is important to mention that the section 5 of the Act which dealt with the “Federation of India” was not implemented. Nevertheless, constitutionally defined lists of the Central, Provincial and the Concurrent were incorporated though the central legislature had the right to pass overriding commands in case of disputes. Nevertheless, the office of the Governor General was kept relatively more powerful (Kundi and Jahangir, 2002; Qureshi, 2009). The Act of 1935 was operationalised in Pakistan after 1947 but it was amended to enable more control by the centre over federating units. These amendments made the central government one of the most powerful governments in the world (Sayeed, 1954) while the Muslim League had a vague idea of the structure of the state – especially on how to balance the ethnic divides within Pakistan which led to a delay in framing a workable constitution (Adeney, 2009).

### 3.2 Federalism: Since 1947

While struggling with the divergent aspirations around the issues of representation and language, the country was able to frame a constitution in 1956 after passing through almost a decade long period of constitution making dilemmas. Urdu-speaking Mohajirs, Bengalis and Punjabis belonging to either powerful institutions such as the army and civil bureaucracy or the linguistic majority, played a significant role in the process (Adeney, 2009). Table 3.1 shows an interesting comparison of

**Table 3.1**

**East - West Representation in the military officer class 1955 - 1956**

Service	East Pakistan	Percentage	West Pakistan	Percentage	Total
Army	14	1.5	894	98.5	908
Navy	7	1.2	593	98.8	600
Air Force	60	8.6	640	91.4	700

Source: (Adeney, 2009)

military officers contributed by the East and West Pakistan in 1955 which was thought to be significant in determining the relative position of influence of the two wings in decision making processes at the federal levels. Table 3.2 shows that relative to their population size both Punjabis and Urdu-speaking were over represented in central superior services of Pakistan.

**Table 3.2**

**Ethnic representation in the Civil Service of Pakistan (CSP) 1961**

Mother Tongue	In Pakistan (%)	Quota (%)	In CSP (%)
Bengali	55.48	42	32
Punjabi	29.02	24	35
Sindhi	5.51	17	5
Pashtu	3.8		7
Baluchi	1.09		
Urdu	3.65	17	21
Others	1.55	0	0

Source: (Adeney, 2009).

It has been argued that neither the army nor the bureaucracy was willing to endorse a constitutional structure that gave power to a community they despised and looked down upon the Bengalis. Concerns to preserve ethnic and occupational privileges therefore coincided (Adeney, 2009).

### 3.3 Federalism: Constitution of 1956

However, despite all the politics of representation and language, the constitution which emerged was federal in character but centralized<sup>4</sup> in spirit which deliberately

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<sup>4</sup> Residual powers were granted to the provinces but the concurrent list was significantly large and sharing of executive authority including civil and criminal law. However, allocation of residual powers to the provinces made it formally less centralized in comparison with the Government of India Act 1935 Adeney, K. (2009) 'The Limitations of Non-conso-associational Federalism: The Example of Pakistan', *Ethnopolitics*, Vol. 8, No. 1, pp. 87–106.

undermined the ethnic cleavages and the One Unit formula (creation of one province called “West Pakistan”) It had many similarities with the Government of India Act which had been a significant move towards federal system during the Raj (Choudhury, 2005). Linguistic diversity and how to accommodate remain a question and Adeney’s analysis is given below at length:

*This created two provinces, one linguistically homogeneous (98% of the population of East Pakistan spoke Bengali) and the other linguistically heterogeneous (63% of the western wing spoke “Punjabi”, but there were other significant linguistic groups who spoke Pashtu, Sindhi, Urdu or Balochi). In another example of undermining the importance of ethno-linguistic groups, Urdu was earlier adopted as the national language although it was spoken as a mother tongue by only 3.24% of the total population (Bengali was spoken by 54%) (Adeney, 2009, p. 90).*

The constitution tried to soften the centralizing impact of the Government of India Act 1935 since under the Article 106 (1), the federal list was shortened with thirty items which were sixty one earlier and provincial list had 94 items. While the concurrent list was also reduced to 19 items there are views that it was still enough to centralize the administrative and economic development system by the central government. The central government had overriding powers in the matters of economic development, national security, and coordination amongst the provinces (Adeney, 2009; Choudhury, 2005; Kundi and Jahangir, 2002).

The National Assembly was supposed to directly elect 310 members in which 150 were elected by popular vote from each unit. However, the seats in the Western part were divided on the basis of population residing in the Punjab, NWFP (now Khyber-Pakhtunkhwa), Balochistan, and Sindh. In addition, ten seats were reserved for women to be elected indirectly.

However, the Legislative Assembly was dissolved in 1958 ahead of anticipated national elections and the reins of power later went in the hands of the military, with Commander-in-Chief Ayub Khan who ruled the country under martial law between 1958–1962 without any constitutional apparatus. The dissolution of assembly created serious difficulties in relationships between the Eastern and Western parts of Pakistan and had long term impact on the performance of its federal system. However, in 1962 a new constitution based on “Basic Democracies” while retaining the One Unit was created (Kundi and Jahangir, 2002; Talbot, 2009).

### 3.4 Federalism: Constitution of 1962

Ayub Khan was able to get support for continuation of his rule from the military and civil bureaucracy. Being over-developed federal institutional designs (Alavi, 1972) under the imperialist British Raj, these two institutions provided the strength of execution. Khalid bin Sayeed has called it a system close to the British viceregal system of 1940s (Sayeed, 1967, p. 101).

As in the case of the recommendation of the Basic Principles Committee which was formed for the Constitution of 1956, Ayub Khan ignored the recommendations of constitution commission which was established in 1960. Both of these arrangements had recommended for federal form of government with maximum autonomy given to the federating units (Kundi and Jahangir, 2002; Sayeed, 1980). Ayub Khan was more interested in having a strong central government with appeal to Pakistani nationalism (Choudhury, 2005).

Nevertheless the constitution retained the federal structure of 1956 constitution and had three lists i.e., Centre, Provincial and Concurrent. The constitution adopted the One Unit system in which one house called National Assembly was supposed to work for five years term which was manned by equal number of members from the eastern and western wings of Pakistan. Going tangent to the federal system of governance, 49 items were listed as federal while residual powers were given to the federating units so no items were specified. Emerging from the support of military and civil bureaucracy, the Constitution tilted the balance of power towards the central government and federal legislature with provincial legislature having virtually nothing to legislate about (Kundi and Jahangir, 2002).

While thinking of being able to get a hung Parliament so that the military junta could have a decisive role to play, Yahya Khan who succeeded Ayub Khan by imposing martial law in 1969, abrogated the One Unit. The results of the free and fair elections were surprising. Awami League<sup>5</sup> won all but two seats from East Pakistan but the powers in the West Pakistan central government did not convene the National Assembly. The Central Government decided to launch Operation Searchlight

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<sup>5</sup> Awami League won election on Six point agenda which called for maximum autonomy for the provinces with federal government holding only defence and foreign affairs.

to restore law and order in the Eastern wing. A situation which primarily emerged from Islamabad delaying formation of Awami League's Central Government. It resulted in violent conflicts, the deaths of hundreds of thousands of Bengalis, the creation of ten million refugees and culminating in the secession of East Pakistan to become Bangladesh (Adeney, 2009; Kundi and Jahangir, 2002). The idea of a federal system which was tilted towards a strong unitary kind of arrangement failed to hold together the federating units while in an undemocratic way the verdict of majority was dishonoured.

### 3.5 Federalism: Constitution of 1973

After the dismemberment of Pakistan in 1971, a new constitution was drafted in 1973 which replaced the interim constitution of 1971. However, the 1973 Constitution predominantly followed the previous Constitutions on 1956 and 1962 to the extent that in many instances the language used in many Articles was also retained (Khan, 2010). It retained a federal system, but unlike the previous Constitutions created a bicameral legislature. It had an upper house called Senate having 60 seats and a lower house called National Assembly which had 200 seats. The four units of the federation equally represented in the Senate while the National Assembly seats were divided on population basis.

The 1973 Constitution, nevertheless, is distinguishable from the previous ones because it created the Senate having equal representation of all federating units so that smaller provinces like Balochistan<sup>6</sup> are represented and the Senate plays a role in the system of checks and balances (Khan, 2010). However, it has been argued that the question of ethnicity and language were addressed without explicit consociationalism. Therefore, the Punjab, possessed absolute majority of the seats in the National Assembly while Urdu became the sole national language though Sindh replaced Urdu with Sindhi (Adeney, 2009).

The 1973 constitution created the form of federal structure of the state as mentioned earlier and had two Lists; one federal and the other concurrent. In the upper house or Senate, each federating unit contributed 14 members for four years term

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<sup>6</sup> Balochistan was given status of province in 1970.

while half of them retired after two years. The Federal List having 67 subjects was for the federal government while the Concurrent List provided opportunity for the provincial legislature to draft laws on the subjects. However, in the case of a dispute, according to the Article 143, the rights of the central government must be supreme and prevail (Kundi and Jahangir, 2002).

In order to strengthen the spirit of federation, a Council of Common Interest (CCI) was created. It was to be appointed by the President and must have Chief Ministers of the provinces with equal members from the Federal Government. The Council had exclusive jurisdiction over hearing of complaints regarding water supplies from the natural sources such as supply of water from rivers. In addition, the Council was supposed to formulate policies related to railways, electricity, oil and gas, and industrial development (Choudhury, 2005, p. 323; Khan, 2010).

While the constitution came into force on August 14, 1973 and the Prime Minister Zulfikar Ali Bhutto made a momentous speech in which he said that the days of coups were ended and that violence in politics must stop (Khan, 2010). However, in terms of functioning of the constitution, the Bhutto regime which drafted this document showed inkling for a stronger role of the Central Government which created disgruntlement amongst the Baloch and Pashton parts of the federating units. Two days after the enforcement, Former Governor and Chief Minister of Balochistan along with a Member National Assembly (MNA) were arrested on charges of corruption and seditious activities. Likewise, the National Awami Party's (Ganapati and Liu) government in NWFP was declared incapable of handling the affairs of the state while declaring the NAP an unlawful organization operating 'in a manner prejudicial to the sovereignty and integrity of Pakistan (Khan, 2010).

In addition, the federal government also tried to silence the opposition parties within the National Assembly and behaved like a Bonapartist State (Kundi and Jahangir, 2002; Sayeed, 1980). The state of affairs gave a serious blow to federalism and what was left was crowded out by the Martial Law regime of Zia ul-Haq who put the constitution in abeyance for eight years.

### 3.5.1 8<sup>th</sup> Amendment to Constitution of 1973

While the constitution was held in abeyance, the country was run in a unitary fashion. During this period a number of presidential orders were issued. These orders took the form of the 8<sup>th</sup> amendment when the constitution was restored through a Presidential Order. This order was known as Revival of the Constitution of 1973 order (RCO) on March 2, 1985. In this order sixty-five Articles were amended, substituted, added, modified, deleted and omitted (Khan, 2010). It should be noted that after this amendment the office of the President was made more powerful than it was under the original constitution of 1973. The President could now dissolve the National Assembly at his discretion.

However, the federal structure of the constitution was not changed in the amendment. It rather increased the legislative powers, tenure of members (four to six years), and provincial representation (from 14 to 19) in the Senate – the upper house of Parliament. The Senate has equal representation of all provinces and representation from Federally Administered Tribal Areas. The number of members of the Senate were also increased from, sixty-three to eighty-seven with five seats from each province reserved for technocrats, ulema, or professionals. Seats for women were also increased in the National Assembly from ten to twenty and this increase continued till the third general elections (Khan, 2010). In addition to the increase the Senate was enabled to initiate legislation as needed with two third majority rather than simple majority to legislate. These amendments in the Constitution gave greater powers to the smaller provinces in the matters of decision-making (Choudhury, 2005; Kundi and Jahangir, 2002).

### 3.5.2 17<sup>th</sup> Amendment to Constitution of 1973

On October 12, 1999, Pakistan again lapsed into a military regime. Though it was said that martial law was not imposed as certain parts of the constitution were suspended when General Pervez Musharraf staged a coup d'état against the elected government of Nawaz Sharif. A Legal Framework Order (LFO) was issued to run the affairs of the state with a pledge to run the government according to the spirit of the Constitution of 1973. General Musharraf in his speech on October 13, 1999 announced a seven-point agenda which included a clause about 'strengthening of the federation by removal of inter provincial disharmony and restoration

of national cohesion' (Khan, 2010). To continue to holding power beyond three years, as mandated by the Supreme Court, General Pervez Musharraf held a referendum on April 30, 2002. The result of the referendum went in his favour. After the result of the referendum, National Reconstruction Bureau (NRB) headed by a retired lieutenant general started preparing constitutional amendment packages in 'great secrecy' (Khan, 2010). The second LFO was promulgated on August 21, 2002 which tried to centralize the system of government though it paradoxically professed to have established a reformed local government system. The LFO 2002 has been described as against the spirit of the constitution i.e., parliamentary form of government and provincial autonomy. It has been argued that the local governments actually started encroaching the space of provincial governments while having the creation of the Central Government (Khan, 2010).

General elections were held in February 2002 and after many political debates and give and take between the military regime and political parties, especially with the alliance of religious parties *Mottahida Majlis-e Amal* (MMA), the 17th amendment was passed in December, 2003<sup>7</sup>. This amendment again increased the powers of the President who could now dissolve the legislative assembly. However, a clause was added that the Supreme Court will have the jurisdiction for a review of the decision. The amendment, however, did not alter the federal character of the state in any fundamental way despite having introduced a new shape of local government system. However, the election of the President for the next term became a political controversy<sup>8</sup>.

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<sup>7</sup> The full text of the 17th amendment is available at <http://www.pakistani.org/pakistan/constitution/amendments/17amendment.html>. (Last Accessed: June 20, 2010).

<sup>8</sup> For detail commentary on the implication of 17th amendment see Dr. Hasan Askari's article in the Daily Times available at [http://www.dailytimes.com.pk/default.asp?page=story\\_5-1-2004\\_pg3\\_2](http://www.dailytimes.com.pk/default.asp?page=story_5-1-2004_pg3_2) (Last Accessed: June 22, 2010).

In 2008, Pakistan went for parliamentary elections and Pakistan People's Party (PPP) came into power. The party and other players such as Pakistan Muslim League (PML-N) had pledged to restore the constitution of 1973 under the Charter of Democracy (COD) or *Misaq-e Jamhoriyat* which was signed on May 4, 2006 in London. To accomplish the restoration of the 1973 Constitution, 18th Amendment has been enacted. It is the latest amendment to the Constitution of 1973.

### 3.5.3 18<sup>th</sup> Amendment to Constitution of 1973

The 18th Amendment to the Constitution of Pakistan<sup>9</sup>, was passed by the National Assembly on April 8, 2010, the Senate passed it on April 15, 2010 and the President signed it on April 19, 2010. The amendment removed the power of the President to dissolve Parliament. It has been argued that the current change in the constitution has again placed the constitution from being semi-presidential to parliamentary form.

It was the first time in the history of Pakistan that a President willingly signed a document which truncates its powers. In addition, the amendment has increased the judicial independence by which appointment of judges in Supreme Court will be done through a judicial commission. The President will not unilaterally impose emergency in the provinces and the President will also not appoint the Chief Election Commissioner<sup>10</sup>. It appears that under the 18th Amendment to the Constitution, a serious attempt has been made to revive the following principles of the 1973 Constitution:

1. Federal Parliamentary system of government.
2. Prime Minister as Chief Executive.
3. President to be a symbolic head – bound by the advice of the Prime Minister in all matters<sup>11</sup>.

<sup>9</sup> The full text of the 18th amendment is available at [http://www.na.gov.pk/passed\\_bill/passed\\_bill\\_2010/constitution\\_eighteenth\\_amendment\\_act2010\\_080410.pdf](http://www.na.gov.pk/passed_bill/passed_bill_2010/constitution_eighteenth_amendment_act2010_080410.pdf) (Last Accessed: June 24, 2010).

<sup>10</sup> Detail is available at [http://news.bbc.co.uk/2/hi/south\\_asia/8609814.stm](http://news.bbc.co.uk/2/hi/south_asia/8609814.stm) (Last Accessed: June 27, 2010).

<sup>11</sup> For details see Constitutional Development in Pakistan (Law Inn Publishers, Lahore: 2005) page no. 317.

In addition, to the change in powers of the President and removal of restrictions on people to run for elections such as becoming Prime Minister for the third time, the name of North Western Frontier Province (NWFP) was changed; now the name is Khyber-Pakhtunkhwa. However, the re-naming of the province created violence in the Hindko-speaking population who opposed the name Pakhtunkhwa<sup>12</sup> on the grounds of ethnic and cultural identity. After having long political discussions amongst the major political parties, the name Khyber-Pakhtunkhwa was adopted.

### 3.6 Gilgit-Baltistan: The 2009 Order<sup>13</sup>

In September 2009, the Pakistan People's Party government issued Empowerment and Self-Governance Order 2009 for the Northern Areas of Pakistan and renamed them as Gilgit-Baltistan while providing them province-like status. The Order 2009 provided for a Chief Minister as leader of the Legislative Council, Public Services Commission, Chief Election Commissioner and Auditor General. The Northern Areas are historically part of Kashmir region and rich in natural resources including water and the Bhasha-Diamer hydroelectric power project will be situated in this area. The religio-ethnic dynamics of Gilgit-Baltistan are interesting from the perspective of federalism and conflicts. While the state and the rest of the federating units are predominantly Sunni, the region is the only place where Shia are in majority. In addition, the people of this region are historically demanding equal rights with the rest of Pakistan and their needs and aspirations must be taken into account while allocating resources and opportunities. To ensure meaningful participation in decision-making bodies while being respectful for distinct cultures and languages, a consociational regime has to be brought in to create political space in a predominantly majoritarian form of democracy in Pakistan.

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<sup>12</sup> BBC reported some part of the violence and protest. Available at [http://news.bbc.co.uk/2/hi/south\\_asia/8617719.stm](http://news.bbc.co.uk/2/hi/south_asia/8617719.stm) (Last Accessed: June 26, 2010).

<sup>13</sup> Detail is available at <http://www.forumfed.org/pubs/Waseem-Fed-Overview.pdf> (Last Accessed: September 8, 2010)

Table 3.3

## Pakistan by Mother Language (1998)

Linguistic Group	Pakistan	Punjab	Sindh	NWFP	Balochistan
Urdu	7.8	4.5	21.1	0.8	1.6
Punjabi	3.5	75.2	7	1	2.9
Pashto	10.9	1.2	4.2	73	23
Sindh	14.6	0.1	59.7	0	6.8
Balochi	3.5	0.7	2.1	0	58.5
Siraiki	10.9	17.4	1	3.9	2.6
Others	4.8	0.9	4.9	20.4	5.1
Total	100	100	100	100	100
Population in Millions	127.5	73.6	30.4	17.7	5.7

Source: (Mushtaq, 2009).

## Conclusion

Much of the history of federalism in Pakistan is the history of avoiding federalism by means of avoiding provincial autonomy. While the 1973 Constitution emerged in the aftermath of a struggle for provincial autonomy, the challenges of power-sharing using different equations are enormous. The state always finds itself in a difficult situation where it needs to balance the distribution side of economic development. It is influenced by lopsidedness in population, geographical area and mineral resources while safeguarding the interests and identity of provinces (Khan, 2010).

There is no denying the fact that there are at least three basic requirements of a federation for it to function well. First is the supremacy of constitution, the second is formal division of powers, and the third is independent judiciary. In Pakistan, one way or the other these three important pre-conditions have consistently been sabotaged. A significant proportion of the state resources have been wasted in constitution making dilemmas and military coups. These military coups have weakened the foundations of the state by not allowing the democratic processes to de-

velop the Constitution and federal structures (Noman, 1988). It must be mentioned that during the time military was indirectly ruling Pakistan, much of state resources have been squandered in political score settling, fragmentations and palace intrigues.

However, it appears that the democratic government in Pakistan, with the 18th amendment has tried to rectify the damages done to the constitution and federal structure. In the current situation in which Concurrent List has been abolished and many legislative functions have been devolved to provinces, the role of the Council of Common Interest becomes much more important. This constitutional body must be activated to play the role of the main coordination mechanism in allocation of resources while being designed to safeguard the rights of provinces (Khan, 2010).

It should, however, not create a sense of complacency. Pakistan needs to bring consociational regimes so that the voices of the excluded segments of society are heard and mainstreamed in the political set-ups. The following table shows an interesting mix of social groups based on languages. Amongst these groups, there are some who are still struggling for their democratic rights of identity and greater role in the decision-making processes.

Here it is important to mention that successful federations respond to the demands of minority social and ethnic groups in a faster way. The delays in rectification take disgruntlements into conflicts of high proportions where conflict resolution becomes irresolvable (McGarry and O'Leary, 2009). In addition, the Northern Areas of Pakistan have been given a province-like status and renamed Gilgit-Baltistan. The population is predominant Shia and have distinct cultural and language heritage which needs to be given due importance and weightage in decision-making bodies in Pakistan.

## IV. FEDERALISM, IDENTITY AND CONFLICT IN PAKISTAN

The problems of identity and conflict are results of many issues which include the state system being democratically challenged<sup>14</sup>. Among those challenges are persistent regional inequalities, and a contested structure of federation with a dominating role of non-elected institutions. More recently, the global and regional geostrategic imperatives have also played a significant role in creating diverse dimensions to the problems of statehood. However, this is the chequered democratic history which has influenced the identity formation and interest articulation the most (Abdullah, 2010; Adeney, 2009; Waseem, 1997).

It is argued that the federal system in Pakistan has not been successful enough to contain severe ethno-linguistic conflicts. The state system underwent diverse kind of changes ranging from centralism, populism and efforts for Islamisation. These did not create much needed space for provincial autonomy and meaningful participation of ethnic minorities. Much of tweaking with the constitutional apparatus

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<sup>14</sup> Under the rubric of being democratically challenged, it has been argued that Pakistan has had repeated episodes of Martial Laws which suspended the democratic development. Martial Laws were imposed in 1958, 1977, and 1999. The Martial Laws remained in force for around half of the sixty years of Pakistan. In addition, during the 1990s, the elected governments were prematurely removed before completion of their period.

has actually been done on behest of the military and civil bureaucracy rather than expression of a democratic polity. Such interventions could not contain ethno-religious conflicts to manageable levels. In fact, the sense of “Punjabisation” of the state along with rapid urbanization specially in Karachi has created situations of ethnic disharmony and violence (Waseem, 1997). Table 4.1 shows a history of selected interventions by the central government in the provincial matters.

However, amidst all the discontent with the Central Government, the Pashtuns in Khyber-Pakhtunkhwa have shown greater integration with the core institutions of

**Table 4.1**

**Central Government’s Intervention in Federating Units**

Year	Description
1947	Congress ministry in NWFP had ‘the support of 33 members out of 50’. But it was replaced by a Muslim League ministry.
1947	Sindh Assembly opposed the decision of Central Government to take Karachi out of the control of Sindh and passed a resolution unanimously. The Chief Minister of Sindh had to pay for this resolution and he was dismissed soon.
1948	Inclusion of Kalat state into Pakistan.
1955	One-unit Scheme (amalgamation of provinces and states into the province of West Pakistan).
1962-69	Ayub’s Presidential period (Federal system operated like British Vice regal system of 1930s).
1970-71	Military action in East Pakistan and its separation.
1972-73	End of tripartite accord and dissolution of Balochistan government. NWFP government resigned
1977-88	Constitutional amendments by Military Regime undermined the parliamentary and Federal nature of the constitution.
1988-93	Dissolution of provincial assemblies ( 1988, 1990, 1993).
1994	Governor Rule in NWFP and installation of favourable government.
1995	Governor rule in Punjab and installation of new government.
2002	17 <sup>th</sup> Amendment has undermined the federal character of the state.

Source: (Mushtaq, 2009).

the state which includes army and bureaucracy. Can such flexibility be replicated elsewhere specially in Balochistan as well? It is argued that there is a strong case to introduce consociational mechanisms which ensure consensus based on genuine consultative processes and wider representation of social groups so that conflicts and exclusions are reduced and resolved at the local levels. There is a need to generate more space for the people of Balochistan to become part of mainstream political, social and economic development processes. A sense is growing that the stronger institutions of the state which do not have adequate representation from Balochistan can violate laws with impunity. The Pakistan Navy has been alleged to have occupied land in Turbat and Dasht districts in the Makran division while violating the Land Acquisition Act.<sup>15</sup>

Democracy alone appears to be insufficient to address the power imbalances which emerge out of representative character of systems of governance (Adeney, 2009). However, the issues of identity and conflict in a federal system, which is either run in a majoritarian or unitary fashion, can have many influencing factors embedded in economic and ethnic-linguistic dimensions.

#### 4.1 Linguistic Dimensions

Pakistan has been and is still rich in lingual diversity. Even today, it has more than six major and 59 small languages<sup>16</sup>. This should provide the state a reliable source of cultural strength of diversity with unity. Pakistan as federation, however, did not treat diversity to increase social capital but tried to enact national integration through religio-ideological hegemonic designs. Looking through the prism of history one finds that despite Quaid-e Azam's advice in March 1948 that Bengali be made provincial language, the supremacy of Urdu over other languages remained an ardent belief amongst the political and administrative circles of power in West Pakistan. The Bengali language which was written in Devanagari script was viewed as

<sup>15</sup> For details see [http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/provinces/03-violation-of-the-land-acquisition-act-ss-05?utm\\_source=feedburner&utm\\_medium=feed&utm\\_campaign=Feed:+dawn/news/pakistan+\(DAWN.COM+-+Pakistan+News\)](http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/provinces/03-violation-of-the-land-acquisition-act-ss-05?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed:+dawn/news/pakistan+(DAWN.COM+-+Pakistan+News)) (Last Accessed: September 8, 2010)

<sup>16</sup> Language Policy, Power and the Weaker Languages of Pakistan", by Dr. Tariq Rahman. Available at <http://www.tariqrahman.net/language/Abstract%20Multilingualism.htm> (Last Accessed: August 14, 2010)

“unislamic” language. The language controversy in which different organs of the state dominated by West Pakistan tried to make Urdu lingua franca of Pakistan, it invited strong reaction from Awami League. Other parties, which observed a strike in February 1952, led to incidence of violence which eventually sealed the fate of Urdu in East Pakistan. Interestingly, the language and identity politics gained grounds in Sindh as well (Afzal, 2001).

Since the state favours English and Urdu, regardless of whatever happened in the past, the languages of the domains of power – government, corporate sector, media, education etc. – are English and Urdu<sup>17</sup>. In the federal state which houses both diversity and inequality amongst the social groups, language question has assumed prominence as expression of the ethnic identity. However, the language issue has also divided the society in classes such as “English being the language of the powerful” and the rest taken as marker of lower status and in some forms “cultural minors”.

In the current situation, it appears that the Sindhis, the Pashtuns and the Baloch have resisted elimination of their languages while the Punjabi middle class has completely succumbed to the dominant English and Urdu oriented culture. However, the question raised by many researchers including Dr. Tariq Rahman is whether we are all collaborating wilfully or unknowingly in “killing” our indigenous languages?<sup>18</sup>

In one of his articles he argues as following:

We are rich in languages. Let us treat them as cultural assets and not liabilities. As it is, the forces of globalization and modernity are killing the languages of the world at a very fast pace. Let us, at least, change our language policy so as to add English and Urdu to our repertoire of linguistic skills without destroying our mother-tongues, our authentic selves, our culture and our identity.<sup>19</sup>

<sup>17</sup> Language Policy, Power and the Weaker Languages of Pakistan”, by Dr. Tariq Rahman. Available at <http://www.tariqrahman.net/language/Abstract%20Multilingualism.htm> (Last Accessed: August 14, 2010).

<sup>18</sup> “Are we Killing Our Languages?”

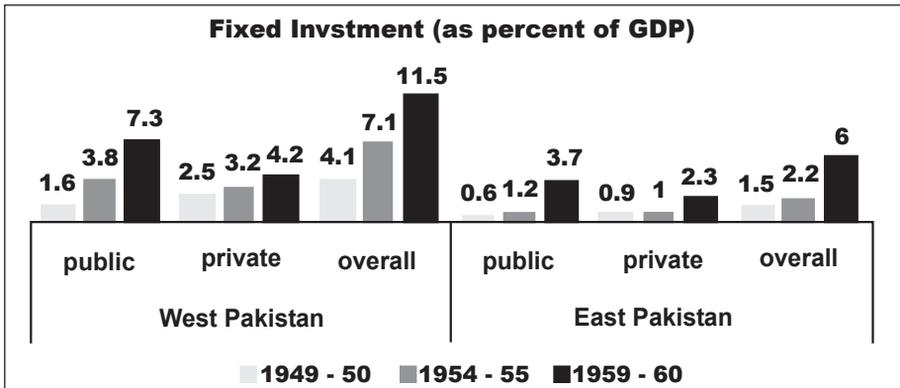
<http://www.tariqrahman.net/newspaper/Are%20We%20Killing%20Our%20Languages.htm>

<sup>19</sup> “Death of a Language”, by Dr. Tariq Rahman. Available at <http://www.tariqrahman.net/newspaper/Death%20of%20a%20Language.htm> (Last Accessed: August 20, 2010).

The above quote also provides a rich basis for a federation which should work in a consociational manner rather than a majoritarian way of imposing the language, culture, and identity of the majority on minorities. The federation is strengthened when minorities feel that their rights, culture, language, and heritage is being protected and even promoted in a state.

### 4.2 Economic Dimensions

A little review of history is important to understand the incidence of regional disparity and how it has created situations of dissatisfaction with central rule which emerge out of non-consociational circumstances mainly embedded in the economic and political disequilibrium. For example, the patrons of investment have been different in the former Eastern and Western regions of Pakistan. The figure given below presents the data for the years of 1949–50, 1954–55, and 1959–60. It clearly shows that investment was almost double in the Western wing than the Eastern.



Source: (Hasan, 1998).

Similarly, table 4.2 shows that the per capita GDP grew at a much faster rate in West than in East Pakistan. The perceptions of economic inequality gave a very decisive push to secessionist sentiments in East Pakistan (now Bangladesh) and weakened the legitimacy of state to act as resource allocator. In fact, it has been argued that economic resources were given to those social and political groups which accepted the military regimes in power at the centre (Noman, 1988; Sayed, 1995).

**Table 4.2****Per Capita GDP in East and West Pakistan (at 1959/60 constant prices)**

Year	Per Capita GDP( East)	Per Capita GDP (West)	West-East disparity ratio
1959-60	269	355	1.32
1969-70	314	504	1.61

Source: (Ahmed and Amjad, 1984).

After having seen the above mentioned economic data, the table below becomes self-explanatory showing incidence of riots and unrest more in East Pakistan than West Pakistan. These patterns of economic development has played substantive role in creating inequalities especially amongst the social groups such as ethno-linguistic formulations.

**Table 4.3****Riots in East and West Pakistan**

Year	West	East
1958	1356	4550
1959	913	3232
1960	1114	4499
1961	1681	4777
1962	609	4792
1963	758	5182
1964	1086	5723
1965	995	5626
1966	967	6135

Source: (Noman, 1988).

Some researchers have argued that the reasons of social conflict rest with the political system as well as with the diversion of economic resources towards certain regions. Skewed resource allocations and diversions have created inequalities not only amongst individuals but also amongst social groups. Such inequalities are called horizontal inequalities (Stewart, 2000). In Pakistan, the violent ethnic conflict in metropolitan Karachi to insurgency in Balochistan and random incidences of sectarian violence elsewhere in the country have a great deal to do with divergences in economic growth. In addition, during the last ten years, the country is witness to violent conflict in North-Western and also in Southern Punjab somehow being called a hotbed for extremist elements (Abbasi, 2009; Malik, 2009).

Table 4.4 shows some key development indicators shown in a comparative fashion to establish that empirical evidence also suggests that low development specially “inequality in development” can create situation of conflict as well as religio-ethnic violence. It clearly shows Khyber-Pakhtunkhwa (then NWFP) shows low progress as compared to the rest of Pakistan and FATA shows even lower levels of development than the adjoining province of Khyber-Pakhtunkhwa. FATA is at the moment, most vulnerable region in Pakistan where Talibanisation is at its peak (Malik, 2009).

**Table 4.4**

**Selected Development Indicators for Pakistan, NWFP and FATA (1998)**

Indicator	Pakistan	NWFP	FATA
Literacy Ratio (both sexes, %)	43.92	35.41	17.42
Male literacy Ratio (%)	54.81	51.39	29.51
Female literacy Ratio (%)	32.02	18.82	3
Population per doctor	1,226	4,916	7,670
Population per bed in health institutions	1,341	1,594	2,179
Roads (per sq km)	0.26	0.13	0.17

Source: (Malik, 2009).

Similarly, table 4.5 shows that the areas in Southern Punjab, which are being called under the influence of violent conflict and are recruitment grounds for militants, have higher levels of poverty. Poverty can be taken as a proxy indicator of deprivation and socio-political exclusion from mainstream development. This deprivation has a connection with identity formation and politics of violence (Malik, 2009; Stewart, 2000).

**Table 4.5****The Incidence of Poverty in Punjab, Pakistan by District (2004-05)**

<b>Southern Districts</b>	<b>% of Population Below the Poverty Line</b>	<b>Northern Districts</b>	<b>% of Population Below the Poverty Line</b>
Rahimyar Khan	45.87	Rawalpindi	11.32
Bahawalpur	39.46	Attock	14.11
Rajanpur	54.16	Chakwal	18.09
Dera Ghazi Khan	51.01	Sialkot	13.96
Muzaffargarh	56.29	Jhelum	12.32
Multan	38.4	Gujrat	12.72
Lodhran	48.37	Sargodha	25.66
Bahawalnagar	32.45	Narwoal	19.3
Vihari	30.03	Gujranwala	19.04
Khanewal	38.84	Lahore	11.6
Layyah	40.86	Sheikhupure	26.2

Source: (Malik, 2009).

### 4.3 Fiscal Dimensions

An important dimension of dissatisfaction in the federal-provincial relationship in Pakistan has been on the distribution of financial resources. Right from the beginning, the smaller provinces have had reservations on the formulas of distribution which have traditionally been imposed by the federal government (Kundi and Jahangir, 2002).

In 1951, Sir Jeremy Raisman was asked to examine the allocation of revenues between the centre and the provinces. His recommendation was to restore the plan given in Government of India Act 1935. According to that plan 50% of the income tax receipts were to be distributed amongst the provinces with East Pakistan getting 45% of divisible pool and the rest to be distributed amongst other units. Sales tax was to remain under central administration though half of the receipts collected from a particular area could be with the provinces. East Pakistan was allowed to get 62.5% basic just duty. No doubt, such distribution of resources always kept East Pakistan under-funded while bulk of the revenue expenditure went on West Pakistan dominated national security needs. Around PKR 18 crore were spent in East Pakistan while PKR 480 crore in West Pakistan. Likewise, one third of the foreign aid was spent in East Pakistan (Choudhury, 2005, p, 262–266).

In 1955, the four provinces of West Pakistan were made one unit and therefore the awards for the year 1961 and 1964<sup>20</sup> were based on these administrative divisions. The divisible pool consisted of collection from income tax, sales tax, excise duty and export duty. The share of East Pakistan and West Pakistan remained unchanged at 54 percent and 46 percent in 1964 as it was in 1961 (Ahmed et al., 2007). In 1970, after dismantling of the one unit arrangement, national finance committee recommended that 54 per cent share would be given to East Pakistan while the remaining 46 per cent will be divided so that Punjab gets 56.50%, Sindh 23.50%, NWFP 15.50%, and Balochistan 4.50%. In the NFC Award of 1974, Punjab could get 60.35%, Sindh 22.50%, NWFP 13.39%, and Balochistan 3.86% because population was made the sole criteria of fiscal resources (Ahmed et al., 2007).

The fund distributions have been on the basis of population and not on development needs such as poverty (Kundi and Jahangir, 2002; Waseem, 1997). This dissatisfaction has existed though the federation of Pakistan is argued to be sufficiently devolved in comparison with many other states such as Malaysia, South Africa, Spain and Belgium. However, if it is compared with India, then Pakistan needs to have more fiscal decentralisation (Mushtaq, 2009).

Under the military regime, after a census in 1981, the new resource distribution showed Punjab getting 57.97%, with Sindh 23.34%, NWFP 13.39 and Balochistan 5.30%. Under this arrangement, NWFP remained unchanged while Sindh and

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<sup>20</sup> National Finance Commission was setup under Article 144 of the 1962 Constitution.

Table 4.6

Resource Distribution under Various NFC Awards* (in percent)						
No	Year	Federation: provinces distribution	Distribution within Provinces			
			Punjab	Sindh	NWFP	Balochistan
1st	1947	20:80	60.25	22.50	13.39	3.86
2nd	1979	20:80	50.97	23.34	13.39	5.3
3rd	1985	<b>Interim award</b>				
4th	1990		57.87	23.29	13.54	5.3
5th	1996	62.5:37.5	57.88	23.38	13.54	5.3
6th	2000	<b>Interim award</b>				
	2006**	55:45	57.36	23.71	13.82	5.11
7th	2009	44:56	51.74	24.55	14.62	9.09

\* Adapted from Ahmad et. al. (2007) & media reports for 7th Award.

\*\* By Presidential order

Source: State Bank of Pakistan – First Quarterly Report 2010.<sup>21</sup>

Balochistan could get more resources. In 1985 there was no award due to political instability and inconclusive consultation amongst the centre and the provinces; therefore from 1974 till 1990, the resources distribution remained almost the same. In 1996, as the table 4.6 shows all taxes were included in the divisible pool so the percentage share of the provincial and federal government changed enormously i.e., from being 20:80 it become 62.5:37.5<sup>22</sup>. However, the percentage provincial shares remained almost the same. The divisible pool was, nevertheless, revised to take effect from July 1, 2002 as a result of the 1998 Population Census (Ahmed et al., 2007).

The distribution of resources amongst the federal and provincial government has been a thorny issue with a number of issues raised on the formula of resource dis-

<sup>21</sup> First Quarterly Report of the State Bank of Pakistan. Available at <http://www.sbp.org.pk/reports/quarterly/fy10/first/SpecialSection2.pdf> (Last Accessed: August 20, 2010).

<sup>22</sup> First Quarterly Report of the State Bank of Pakistan. Available at <http://www.sbp.org.pk/reports/quarterly/fy10/first/SpecialSection2.pdf> (Last Accessed: August 20, 2010).

Table 4.7

Revenue Sharing Formula for Seventh NFC (2009)		(in percent)			
Indicator	Weight	Share of provinces in terms of indicator			
		Punjab	Sindh	NWFP	Balochistan
Population Share (SBP estimates)*	82	57.36	23.71	13.82	5.11
Poverty / backwardness**	10.3	23.16	23.41	27.82	25.61
Revenue Generation / collection **	5	44	50	5	1
Inverse population density (SBP)	2.7	4.34	7.21	6.54	81.92
<b>Total Share</b>	<b>100</b>	<b>51.74</b>	<b>24.55</b>	<b>14.62</b>	<b>9.09</b>

\* Province wise distribution of population and inverse population density is estimated on the base of data obtained from Pakistan Statistical Year Book 2008 published by Federal Bureau of Statistics Islamabad.

\*\* Distribution of Poverty / backwardness and revenue generation / collection are taken from The News, December 14, 2009.

Source: State Bank of Pakistan – First Quarterly Report 2010 <sup>23</sup>.

tribution as well as transfers through grants<sup>24</sup>. However, it appears that there is a general lack of serious effort to address the question of conflict and mistrust through consensus over the resource distribution. Sticking to population variable also proved to be a bone of contention (Ahmed et al., 2007). Lack of consensus without being able to benefit from democratic dividends, Pakistan has witnessed serious issues over fiscal decentralisation which many NFC awards were never able to resolve. It created a perception that the bigger province is in effective control of all the resources available to the federation.

<sup>23</sup> First Quarterly Report of the State Bank of Pakistan. Available at <http://www.sbp.org.pk/reports/quarterly/fy10/first/SpecialSection2.pdf> (Last Accessed: August 20, 2010).

<sup>24</sup> For details see “Pakistan’s National Finance Commission Awards: A Tool to Exploit Sindh” by Naseer Memon. Available at <http://iaoj.wordpress.com/2009/12/07/pakistans-national-finance-commission-nfc-awards-a-tool-to-exploit-sindh/> (Last Accessed: August 20, 2010).

Ahmed et al. (2007), argue that the following factors should be given due importance:

- (1) Backwardness and development gap.
- (2) Inverse income distribution (rural urban income disparity).
- (3) Natural resource endowment.
- (4) Revenue generation/revenue collection.
- (5) Population density.
- (6) Poverty.
- (7) Area.
- (8) Non-formula transfers.
- (9) Environmental consideration.

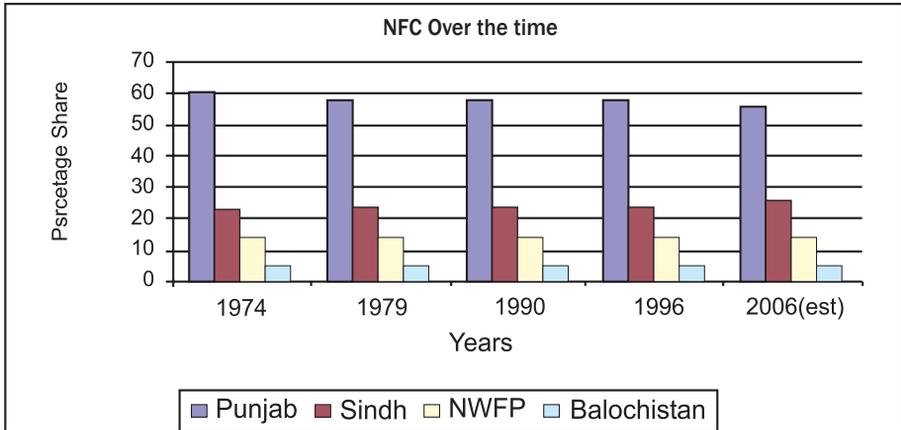
The following table 4.7 shows that at least some weightage has been given to poverty in the seventh NFC award which was delivered by the People's Party government in 2009.

It has been argued that under the new award, transfer of additional financial resources of the country from the federal to the provincial government is arguably the first step toward financially strengthening the provinces. Owing to new formula of weightage, Punjab would get 51.74 per cent from the divisible pool, Sindh 24.55 per cent, the Khyber-Pakhtunkhwa 14.62 per cent, and Balochistan 9.09 per cent. NWFP would receive an additional resource of one per cent from the total divisible pool for expenses incurred by the province on the war on terror during the award period. That would be equivalent to 1.83 per cent of the provincial pool. Balochistan would receive PKR 83 billion from the pool during the first year of the award. In compensation for its acceptance of allocation of an equal weight to generation and collection of revenue, Sindh would receive an additional transfer of PKR six billion from the federal government, which is equivalent of 0.66 per cent of the provincial pool<sup>25</sup>.

However, after the 18th amendment to the 1973 Constitution, more funds would now be available to provinces and since poverty has been included in the criteria

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<sup>25</sup> "National Commission Award: A Way Forward" by Arshad Ali. Available at [http://www.issi.org.pk/photos/NATIONAL\\_FINANCE\\_COMMISSION.pdf](http://www.issi.org.pk/photos/NATIONAL_FINANCE_COMMISSION.pdf) (Last Accessed: August 20, 2010)



Source: (Ahmed et al., 2007).

of fund allocation; there seems to be better federal fiscal arrangement than before. As a result of the Seventh National Finance Commission Award, the provincial share in the divisible pool of resources has been increased from 46% (PKR 655 billion) to 56% (PKR 1,033.6 billion) which is now more than the federal share. There is no precedent of such a massive change in Pakistan's history. Likewise, this time the public sector development programme (PSDP) will be funded more from the provincial exchequer than the federal one<sup>26</sup>. With more funds being available to smaller provinces, it has been argued that a part of Balochistan's dissatisfaction is addressed<sup>27</sup> which can result in reduction of frequency of violent conflicts. However, the problems of Balochistan have multiplied many folds during the last three decades or so. The problems have multiple dimensions such as cultural identity, representation and meaningful participation.

However, it should be kept in mind that since 1974 upto 2006, the share of Balochistan and NWFP (Khyber-Pakhtunkhwa) has not significantly changed. There is a development deficit which manifests itself in the shape of insurgency. The federation needs to address such deficits as urgent and important national priority.

<sup>26</sup> "Provincial Budgets – NFC and Beyond" by Dr. Pervez Tahir <http://tribune.com.pk/story/20280/provincial-budgets---nfc-and-beyond/> -Last Accessed: July 2, 2010).

<sup>27</sup> "Balochistan Question" by Bilal Naqeeb. Available at <http://www.jang.com.pk/thenews/jul2010-weekly/nos-04-07-2010/pol1.htm#7> (Last Accessed: June 23, 2010).

#### 4.4 Ethnic Dimensions

Pakistan is a struggling democracy and a struggling nation-state. It has had both the military regimes and democratic governments trying to build a federal republic. Interestingly, the ethnic questions which must have been addressed under democratic dispensation remained unanswered. In fact, the majoritarian idea system both under democracy and military regimes caused ethno-national mobilisation and increased demographic tensions. The elected and non-elected institutions of the state did not respond effectively and sufficiently to manage grievances which found an ethnic expression specially in a vivid disenchantment with Punjabi domination<sup>28</sup>.

In fact, since 1947, the ethno-national movements have been active which challenged the national coherence of the state. Many issues have been identified which range from perceptions of Pakistani state monopolized by one nationality, absence of rule of law and absence of democracy (Waseem, 1997). It has been argued by researchers that Bengali nationalism, the Pashtun separatism, the Sindhi regionalism, the Baloch nationalism and Mahajirs (since 1980s) have challenged the federal character of the state at various junctures of Pakistani history. It must be mentioned that a low profile nonviolent identity formation with political influence has been emerging in recent time with claim for either Siraikistan or Bahawalpur Province (Mushtaq, 2009). There are serious issues within the provinces where different ethnic groups exits (Adeney, 2009). Recent incidence of violence in the Hazara region while renaming of NWFP is also a significant challenge to ethnic harmony owing to inequalities within provinces. It appears that the provincial government is paying heed to the demands of Hazara region<sup>29</sup>. Apart from the recent ones, the table 4.8 in the following page shows some instances of sub-national protests between 1947 and 2006. This also shows the content of issues facing the federation of Pakistan.

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<sup>28</sup> "Identity and Politics in Pakistan", by Katharine Adeney, Available at [http://www.allacademic.com/meta/p\\_mla\\_apa\\_research\\_citation/2/0/8/7/5/p208757\\_index.html](http://www.allacademic.com/meta/p_mla_apa_research_citation/2/0/8/7/5/p208757_index.html). (Last Accessed: August 12, 2010).

<sup>29</sup> The provincial government of Khyber Pakhtoonkhwa has earmarked less money (8%) as percentage of total ADP where as it contributes 20% of population and 25% of area. For details see "Budget Discrimination against Hazara" at <http://tribune.com.pk/story/25018/budgeted-discrimination-against-hazara/#Pakistan> (Last Accessed: July 4, 2010).

**Table 4.8****Some Instances of Substantial Protests (1947- 2006)**

Time	Group	Location	Description
1947 - 48	Baloch	Kalat and surroundings	First Baloch insurgency of Abdul Karim Khan against forcible annexation of Balochistan into Pakistan.
1947 - 48	Pashtun	NWFP	Reaction to dismissal of Dr Khan's nationalist government.
1958 - 63	Baloch	Baloch countryside	Resistance against one unit scheme, distant identity.
1950s	Pashtun	NWFP	Resistance against one unit scheme, Afghan irredentist movement. But at the same time Dr Khan accepted the offer of central government and became Chief Minister of West Pakistan.
1973 - 77	Baloch	Baloch tribal areas of Marri - Mengal	Baloch insurgency against central government on the dismissal of nationalist regime. This war involved more than 80,000 Pakistani troops and some 55,000 Baloch guerrillas (Hamson, 1981). The insurgency ended after the over throw of Bhutto by Zia ul Haq
1973 - 74	Pashtun	NWFP	Resignation of elected government as a protest against central governments interference in provincial matters of Balochistan and NWFP
1980s	Sindhis	Rural Sindh	Movement for the restoration of Democracy
1980s	Mohajirs	Urban Sindh	Killings in Karachi
2002 - ?	Baloch	Baloch countryside	Baloch resistance movement: a response to marginalisation, demands for distributive justice

Source: (Mushtaq, 2009).

## Conclusion

To address the problems of federalism, provincial autonomy, identity and conflict, Pakistan needs to rethink the patterns of decision-making be that political, economic, or social arena. Such patterns are embedded in the institutional arrangements which form structure of the state such as the political and permanent executive i.e., parliament and the bureaucracy. Practically, the state of Pakistan needs to evolve an agenda of social uplift and economic inclusion of all groups and individuals moving beyond some regions and social groups.

The wrong priorities of deliberately creating 'functional inequalities' be that incomes or social opportunities need to corrected (Sayeed, 1967). There are some regions in Pakistan like central Punjab and urban Sindh which have fared relatively well in terms of income and social mobility during the past sixty years. At the same time, there are pockets of isolation, disempowerment, and poverty such as in Balochistan, Southern Punjab, Khyber-Pakhunkhwa and rural Sindh. This situation of inequality amongst the ethnic groups and region presents a case of horizontal inequalities and its link with conflicts (Malik, 2009).

To address such questions, the egalitarian role of the state must be invoked which should resist the accumulation of politico-economic power in a few hands – land reforms should not get out of fashion and the public finance must tax the rich to undertake equality-enhancing programmes. This requires a conscious effort for establishing a consociational form of government which tries to build policy and planning not by majority decision but by consensus and inclusion of minority ethnic groups in the processes.

The state must go for restructuring of democratic polity in the direction of social and economic harmony. For example, the Sindhis and Balochis are worst off in terms of their representation in military and civil bureaucracy which requires serious action on generating alternative platforms for cooperation in national institutions (Adeney, 2009). In addition, it has also been argued that if the democratic process is permitted to continue, after a few years there is a possibility that extremism in the nationalist movement may give rise to saner politics (Zaidi, 1991, pp. 1301).

It is also advisable that provinces seriously work on building their capacity to develop strong systems of bureaucracy so that they do not have to look towards the centre for supply of higher level officers for ensuring quality of government. The 18th amendment gives reason to hope that the provinces will strengthen their own mechanisms for recruitment and trainings for officers in police and provincial top level bureaucracy.

**It appears that:**

Pakistan must find a balance between various visions of its future. Ethnic leaderships in the provinces and Pakistan's federal government in Islamabad must decide on what is to be the nature of their relationship. As with the creation of any state, a compromise must be found between federalism and states rights, between federation and confederation. [...] However, the resolution of that question will determine if the people of Pakistan will live in a state described by a federation, such as the United States; by confederation, as is hoped for by the European Economic Community; or by tragedy as is the case in the former Yugoslavia. (Hurst, 1996).

After having a discussion on federalism, identity and conflict in Pakistan, it is argued here that though Pakistan is not in extreme danger of losing its collective identity. However, if unresolved, some issues related to regional disparities may become thorny to the extent that a secessionist movement gathers steam in Balochistan (Abbasi, 2010; Adeney, 2009).



## V. PROMISES, POWERS AND PRACTICES UNDER THE 18TH AMENDMENT

It is argued that responding to the challenges of democracy and federalism, the 18th Amendment to the Constitution of 1973 became law on April 19, 2010 with signature by the President of Pakistan. The amendment itself shows the strength of democracy in its ability to achieve consensus after many rounds of discussions and political compromise. Primarily, the amendment tries to rectify two arrangements. One is to empower the Parliament and the office of the Prime Minister and the second is to increase resource share of the provinces. There are some salient features which, if practice match the promises, can create consociational regimes which will strengthen both democracy and the federation. A brief discussion is given below:

### 5.1 Identity and Representation

The amendment to Article 1 has tried to address one fundamental issue of identity in the Pashtun areas. There has been a demand for changing the name of North West Frontier province. A name which reflects the majority ethnic community “Khyber-Pakhtunkhwa” has been agreed upon. However, there have been some incidences of violence in the Hazara region which is around 20% of the population and 25% of the area. As mentioned in the previous chapter, the provincial govern-

ment can address the ethnic issue within the province by allocating more development funds as well as providing multiple forums for representation of different social groups.

It is possible that the new Article 140A which asks for establishing the local governments to devolve political, administrative and financial responsibility and authority to the elected representatives of the local governments, may use consociational regime to assuage dissatisfactions. In addition, Article 27 has also been tweaked and proviso added which asks for rectifying under-representation of any class or area in the service of Pakistan.

## 5.2 Strengthening Democracy

In order to strengthen democracy and put an end to military interventions, the Article 6 has been amended and the act of “collaborating” in subversion of constitution has been added and such an offence called “high treason” cannot be validated by any court of law. These are important steps forward to put some constitutional barriers against coup d’état. How far such arrangements are successful remain to be seen because of severe power imbalances between the elected and non-elected institutions in Pakistan (Jalal, 1995). Nevertheless, the will of the people and founding fathers of Pakistan for a representative democracy has been expressed with this amendment.

In addition, the selected articles in Part III of the constitution which deals with federation have been amended so that the office of the Prime Minister, as Chief Executive of the government is strengthened. Article 58 dealing with the dissolution of National Assembly has been amended so that the discretionary powers of the President under 58-2 (b) are taken away and the process of dissolution is predominantly subjected to the advice of the Prime Minister. With this amendment, under Article 112, the Chief Ministers have also been empowered on the same lines.

Alongside, two new articles, which will have long term implications for democratic polity, have been added. The Article 19A creates “Right to Information” a fundamental right and principle of policy after Article 19 which supports “Freedom of Speech”. In addition, after Article 25 which calls for equality of citizens, Article 25A has been added which asks for “Right to Education” for the children between the

age of five and sixteen. It has been asserted that the education should be “Free and Compulsory”. It appears that the state was at least able to promise conditions for strengthening of democracy which has information and education as most important enabling factors (Deneulin and Shahani, 2009).

### 5.3 Strengthening Federation and Provinces

Responding to the demand of provinces for the abolition of Concurrent List, the List has been abolished and the devolved powers to the provinces will be transferred by the end of June 2011. Some amendments which take away powers from the office of the President made legally clear. For example, Article 104 now clarifies that the Speaker of the Provincial Assembly will be the acting governor. This way the part of the article which says such other person as the President may direct shall act as Governor has been reserved for action in case the speaker is also not available.

Council of Common Interest is a very significant body for coordination of federal affairs. Some changes have been brought in articles dealing with this body. **Article 153** dealing with the Council of Common Interest has been amended to the effect that federal government nominates only three members not four (equal strength of the Chief Ministers). Under **Article 154**, the Council has been asked to maintain a permanent Secretariat and noting the importance of such an important body, it must meet at least once in ninety days. However, provinces can request more meetings for urgent matters.

The **Article 157** which deals with **electricity** has been amended and for any hydro-electric project, a prior consent from the Provincial government is necessary and in case of dispute the matter will be referred to the Council of Common Interest for resolution. Along with this many matters such as major ports, census, national planning and national economic coordination, institutions for higher education and research have been placed under Part II where the Council of Common Interest will advise. It appears that with the change in the planning function of the federal government, the Planning Commission will also be changed towards becoming a secretariat for the Council of Common Interest.

Likewise, **Article 156** which deals with National Economic Council, an advisory body for financial, commercial, economic and social policies has been elaborated and a substantive structure has been added with the Chief Ministers nominating members; also the Council must meet at least twice a year. Most importantly, for a consociational perspective, the amendment adds that the advisory body shall ensure balanced development and regional equity.

While creating constitutional provisions for strengthening the institutional arrangements to realise effective coordination amongst the federating units and the central government, **Article 160** which deals with National Finance Commission has been amended. It has been agreed that the share of Provinces in each Award of National Finance Commission shall not be less than the share given to the Provinces in the previous Award. Alongside, the Federal Minister and the Provincial Ministers for finance have been asked to monitor the implementation biannually and lay their reports before the national and provincial assemblies.

Under **Article 167**, a new clause (4) have been added which gives powers to the provincial governments to raise domestic and international loans. However, the operations have been subject to the guidelines of National Economic Council.

Some very important changes have been brought in Part X, Article 232 which deals with the proclamation of emergency. The following proviso has been inserted which puts limits on the Presidential powers to intervene and subordinate them to the Parliament:

Provided that for imposition of emergency due to internal disturbances beyond the powers of a Provincial Government to control, a Resolution from the Provincial Assembly of that Province shall be required. Provided further that if the President acts on his own, the Proclamation of Emergency shall be placed before both Houses of Majlise-Shoora (Parliament) for approval by each House within ten days.

**Article 242** which deals with the Public Service Commission have also been amended. The words of “in his discretion” for the President have been replaced with “on the advice of the Prime Minister” under clause 1A. For the provinces, a new clause 1B has been added which says, the Chairman of the Public Service Commission constituted in relation to affairs of a Province shall be appointed by

the Governor on advice of the Chief Minister. This clause will help build local and provincial capacities to fill important positions in bureaucracy especially in the context of devolved subjects. Raising voices from a consociational perspective, some commentators have argued that a special provision should have been made to create recruitment spaces for under-represented ethnicities in the armed forces. Interestingly, Article 38 has shown commitment that the shares of the provinces in federal services shall be secured and any omission in the allocation of shares will be rectified.

#### 5.4 Related to Judges

**Article 175A** has been added to Constitution which deals with the appointment of Judges of the Supreme Court, High Courts and the Federal Shariat Court. It forms a Judicial Commission of Pakistan. This particular aspect of the Constitutional Amendment is being reviewed by the Supreme Court.

#### Conclusion

There are dissenting voices on the effectiveness of the Eighteenth Constitutional Amendment in resolving essential problems facing the federation. For example, it has been argued that under Article 143, the powers of the Federal Government have actually been increased from Concurrent List to nullify the provincial legislation in case of dispute. It has also been argued that the amendment did not really respond to the linguistic sensitivities of ethnicities and did not acknowledge regional languages such as Punjabi, Pushto, Balochi, Brahvi and Sikaiki as languages of national importance<sup>30</sup>.

However, there are many provisions in the current amendment which create more space for the provincial governments. Even the Article 172 says that *mineral oil and natural gas within the Province or the territorial waters adjacent there to shall*

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<sup>30</sup> "18th Amendment and Provincial Autonomy: An Unfinished Agenda", available at <http://iaoj.wordpress.com/2010/05/02/18th-amendment-and-provincial-autonomy-an-unfinished-job/> (Last Accessed: July 2, 2010).

vest jointly and equally in that Province and the Federal Government. With the abolition of Concurrent List, the provinces have got jurisdiction over matters such as sales tax on services, duties in respect of succession to property, and estate duty in respect of property.

It must be noted that there are provisions now in the constitution which create demand for consociational regimes to protect the rights of under-represented ethnicities in the institutions which matter in decision making. This is a time when the following type of distribution might be looked at again and Baluchis and Sindhis are accommodated in a better way to let the federation be strengthened.

**Table 5.1**

**Ethnic Origins of Top Bureaucratic Elite in 1983**

Group	Percentage in Bureaucracy	Percentage of Population in 1998	Difference
Punjabis	47.9	44.15	3.75
Pashtuns	11.9	15.42	-3.72
Mohajirs	17.3	7.57	9.37
Sindhis	4.4	14.1	-9.7
Baluchis	0.7	3.57	-2.87
Others	17.7	15.19	2.51

An earlier version of this table originally appeared in Adeney (2007, p.159). Adapted from Amin (1988, p.174) and Government of Pakistan (1998).

Source: (Adeney, 2009)

However, it is important to note that promises have to be converted into policies and polices must be translated into performance.

## Conclusion

Federalism has been a mainstream idea system in the politics of the Subcontinent. The demand for Pakistan has some common threads with the demand of federal structure under the British Raj. In fact, the Lahore resolution adopted by the All

India Muslim League had argued for a federal structure to protect the interests of ethnic minorities under the then prevailing majoritarian democracy.

The story of federalism, however, is not a very impressive. By using the legal structure to hold together the federating units the state does not appear to be very responsive towards the demands of provinces. The distribution of powers had actually been the most pressing issues between East and West Pakistan and till 1971 all constitutions intended to create federal structure with balance of power clearly tilting favourably towards the centre. This trend has not promoted healthy practices to flourish federalism. Under both the civilian and military rule, the federal agencies such the military and civil bureaucracies seem to dominate the policy, financial and political avenues.

The control of federal agencies over legislative, economic and administrative powers have built a sense of discontent and rise of ethnic nationalism and polarization in the federating units. While the federal agencies seem to be overpowering, they have failed to address the issues of horizontal inequalities which emerge owing to regional disparities in economic development. The ever-increasing differences in the levels of poverty and affluence create sense of deprivation amongst social groups especially in smaller provinces. When these groups try to become politically active, they strive to raise identities which federal agencies look with suspicion and sometimes take them as movement for secession. Ultimately, the economic deprivations and inequalities give rise to situations of violent conflicts and military actions.

It appears that the state of Pakistan needs to address many questions simultaneously. It needs to attack the issues of economic disparity with full force and in the most direct way. It needs to generate employment creation potential in the areas of Balochistan and FATA. At the same time, it needs to deliver on the promises made under the 18th Amendment Act 2010. Delivering on the promises does not mean only devolution of political, administrative and financial authority but also a conscious effort to build capacities of the provincial governments to use opportunities created by increased fund availability.

Pakistan needs to focus on the dividends which political participation in decision-making by the ethnic minorities can bring for economic development and social harmony. There is no doubt that the democratically elected government since

2008, is trying to create enabling environment to strengthen the federal structure with provinces being given more space on financial, administrative and policy matters. However, there are issues of exclusion and inclusion along ethnic lines within the provincial boundaries. There are ethnic divisions within Punjab, Balochistan, Sindh and Khyber-Pakhtunkhwa clearly divided along the levels of poverty and affluence. There is a strong need to address these issues on priority basis. At the same time, the province-like status awarded to the Gilgit-Baltistan region requires special attention so that the development and democratic representation deficit is meaningfully addressed and process of integration moves fast.

Federalism and democracy can be a good resource for conflict management. However, majoritarian form of decision-making needs to be tailored with consociational form of accommodation of ethnic minorities. It requires affirmative actions to support the left-outs to be mainstreamed. The democratic Pakistan must know that “singular-identity” view can breed conflict and violence while multiple identities with freedom of choice in non-contrasting identities creates tolerance (Sen, 2007). Finally, it appears that for federalism to succeed in Pakistan, the issues of identity and conflict must be addressed using legal, intellectual, economic, and political strategies. These strategies must create space for consociational regimes moving ahead of majoritarian democratic polity.

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