

THE 18TH CONSTITUTIONAL AMENDMENT AND PROVINCIAL AUTONOMY OF BALOCHISTAN: A PROMISE UNFULFILLED.

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Abstract

Discontent of masses from government is a major characteristic of citizenry in Pakistan. The genuine reason behind this feeling of discontent was allocation of resources and recognition of rights and interests of masses by federal government, which is being ruled mostly by Punjab province. Among other three federating units of Pakistan, Balochistan is crying for provincial autonomy since its inception. 18th amendment is considered as a panacea for all existing ills present in the federation of Pakistan to ensure maximum rights to Balochistan in this democratic setup. Though federation is a modern political system by which a heterogeneous society can live and thrive as one state under one central government without any violation of the democratic norms of the constituting diversity. The smaller provinces still cry for their due share of power especially the people of Baluchistan which feel a sense of deprivation. The people of Baluchistan always unheard in policy formulation where the will of the federal government always dominate as all the power strings are controlled. In theory provincial autonomy exists as concurrent list has been given away with after 18th amendment of 2010 but it practically did not decentralized the power politics. This is an analytical research which will prove that the solution to the problems of Baluchistan is more democratic federalism of true nature where the people are heard where it matters and where ethnicity is tolerated and appreciated.

Key words: Ammendment, Balochistan, Constitution, Democratic, Federalism, Pakistan, Politics.

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Introduction

18th amendment was believed to be a landmark in the constitutional history of Pakistan, which would have a framework devolved the rightful powers to the provinces and established a more democratic federation in Pakistan. 18th amendment was a dire need in order to make its citizenry believe to ensure keeping its citizenry as being echoed by the slogans by political parties of the province. Manifestation of political parties to keep the rest of Pakistan intact and united. As it can be seen through history that the tension between central and provincial governments was always rising and never subsiding as provinces demanded more rights and autonomy which is indeed the main purpose of federation. As the world evolved through times and states started to accommodate different nationalities, the problems hence created by diverse societies concentrating under one state, the modern mind found federalism as a clear solution to the different approach to life of different socio-cultural norms of the people constituting a state. The concept of “Federation” is to ensure smooth mechanism to the state which is inhibited by people who have different culture, language or economic interests. Pakistan is also a state with many different cultures and ethnicities living in different constituting units with different approach to life. Though Pakistan is a federation, but instating true federation has never been the agenda of its ruling elite. And it was one of the main reasons which cost Pakistan the dismemberment of East Pakistan in 1971.

Though Pakistan survived the fetal episode of 1971 but its leaders learned little from the tragedy of 1971 and still the province which is most populated (Punjab) has been the steering wheel of the country and small provinces always cry for being discriminated economically and politically. As mentioned above the province which is largest by area which is also rich in term of natural resources seem to be the least developed as a large segment of its population live below poverty line. As all the major funds or investments are steered towards other provinces the people of Baluchistan feel the undue restraint as unfair and always cry for true federation and more liberty in provincial matters. Dissatisfaction among masses has already reached to a level that a large majority of people has started demanding separation of the province from present federating unit of Pakistan, however sane majority demands complete autonomy as their constitutional right as promised by the

federation of Pakistan in the 18th amendment of the 1973 constitution of Pakistan.

No one can deny this fact that the promises made by the 18th amendment are still not fulfilled. Baluchistan is rich in minerals but development related initiatives have seldom been taken. Balochistan produces 17% of natural gas but most of the areas are still deprived of consuming it both domestically and commercially. Gwadar a port of great strategic importance and economically viable option is not yet functional as it was desired to bring about prosperity to the lives of local masses in particular and inhabitants of Balochistan in general. Presently, there are reservations and concerns of Balochistan based political parties about Pak China Economic Corridor, CPEC and the previously undertaken project. It is feared that both the mega projects might be highjack by powerful forces such as internationally and nationally influential bodies, which will leave very little for the province, Balochistan.

The small population of Baluchistan face insurgency and lawlessness present throughout province has strike a fear in the hearts of the common people. Central government has always given peanuts in the name of NFC awards and other packages to redress the genuine grievances of the local people. It is commonly believed that the representatives of Baluchistan always manipulate the common people during elections with false slogans and try to serve their masters present in the central government rather their own people.

Literature Review

The concept of Federalism evolved through history attaining new features and different definitions as political consciousness developed and as different nationalities started germinating in different regions creating a political havoc and demanding special rights in politics while maintaining their own identity. Wheare defined federalism in the following words “*the federal system is a method of dividing power so that regional governments are placed within a framework of coordination and interdependence*”(Wheare, 1947).Watts defines federalism as “*a principle of organization, whereby a concurrent demand of union achieves a compromise, and for territorial diversity within a society, by the establishment of a single political system, with in which federal and regional governments are assigned to coordinate authority in away that neither level of government is legally or politically subordinate to the other*” (Watts, 1966, p. 12). Hicks considered federalism as a great tool to

unify some states for a specific purpose especially for trade and defense (Hicks, 1978).

Voigt and Blume (2012) explored the different features of the federalism and implored the way residuary powers strengthens state's administration and efficiency. They debated that the more the units of the federal states are liberal and autonomous the greater are the changes of a greater federation.

Many scholars have worked on the historical background of Baluchistan especially Bansal who tried to gather the different historical documented events pre and post-colonial time. According to him Baluchistan was never ruled by a single ruler but was always a region of conflict. Different foreign armies tried to conquer Baluchistan but could only occupy it for temporary time. It was the destiny of 6th Khan of Kalat, Nisar Khan, who established an army of 25000 soldiers and since then the title of Khan of Kalat reigned over Baluchistan for almost 200 years until British conquered sub-continent as its colony. After taking control of the region under Khan of Kalat the British government started to give certain autonomy to certain tribal chiefs in conducting the affairs of their regions according to their local customs and values to reduce the resistance and maintain peace between British and Baloch leaders. The British lost second afghan war with great loses and was forced to let Afghanistan annex some of the regions of Baluchistan by treaty of Gandamak 1879 (Bansal, 2010).

Another scholar Grare termed the military takeovers as one of the main reasons for backwardness of Baluchistan. According to him many of the genuine problems of the people of Baluchistan were squashed under the military boots which pushed the young generation into mountains and join the insurgency. As no democratic norms were allowed to develop through-out Pakistan let alone Balochistan. The military mindset could be imagined through different policies for example General Zia allocated 1.2 million fund for the development of religious seminaries alone to squash the nationalist feelings among the people of Balochistan though the main purpose of federation is to maintain the separate identity of the federating unit (Grare 2006).

Nationalist political parties in Balochistan were studied by Andley and it was brought into light that the major Political Parties which were active demanded for the rights of the people especially demanded their true identity being portrayed democratically. Second major demand of these nationalist

parties was autonomy in the political affairs of Balochistan some parties even demanded complete independence from the rest of Pakistan and to achieve their goals some took to arms and joined the insurgency for example the Political party of Baloch Haqtaalwar led by Khair Buksh Marri and later Balochistan Liberation Army are the front lines of the insurgency in Balochistan (Muzaffar, et. al. 2018).

After 18th Amendment was passed many voices raised from ashes for more autonomy as guaranteed by the new change brought in the constitution of Pakistan. These voices were specially raised from Khyber Pakhtunkhwa and Balochistan and these voices were echoed again and again after the ship of CPEC hit Balochistan through Gwadar port. It was mainly believed that all the major investments are being channelized towards Punjab which is sheer discrimination against smaller provinces. Boni believed that the concerns of the smaller provinces be resolved by the Council of Common Interest as it has the capacity to redress the genuine issues democratically after the 18th amendment.

One of the genuine demands of the people of Balochistan is that they want political autonomy in those matters which are related to Balochistan alone. The way the Federal government has garrisoned the main economic stations like Gwadar (deep sea port) and Sui (natural gas) or Chaghi (gold and silver) has created a great anger among the young generation of Balochistan which face many economical problems in life.

Late Mir Hasil Khan Bizenjo leader of one of the Nationalist parties of Balochistan reiterated again and again the biased attitude of Federal Government in different interviews he gave to different media cells and researchers. He repeatedly highlighted the mishandling of issues while suggesting pragmatic solution to best resolve it. He made unequivocal statements that the Baloch people have no hatred against anybody irrespective of their belonging, particularly the most populated province of Punjab but hates the way the different institutions like bureaucracy treats the issues in the province. He also highlighted the wrong and unfair decisions made by the different federal governments. Like in 1948 the unjust imprisonment of Prince Agha Khan who surrendered on specific terms and how those terms were violated. Later Nuarose Khan a Baloch nationalist leader and killed him unlawfully. Later during the tenure of Zulfiqar Ali Bhutto the elected government was thrown out which led to arms struggle

between the Baloch people and the Army of Pakistan resulting heavy losses on both ends. Next he talked about the policy flaw the way Akabar Khan Bugti was treated though he never talked about complete independence of Baluchistan rather only about its autonomy. The case of missing persons and forced disappearances of Baloch youth ultimately pushed the Baloch people beyond the limits of hatred for the different institutions working for federal government in Balochistan.

Hasil Khan Bizenjo commented on 18th amendment and said that the promises made by Mohammad Ali Jinnah with the people of Baluchistan after partition were never fulfilled by the leaders who came to power later. He quoted Quaid e Azam that he wanted Pakistan to be a true federation in which the provinces would enjoy complete independence in provincial matters but even 18th amendment could not fulfill that promise of Jinnah which is indeed a document guaranteeing a greater provincial autonomy in Pakistan which provinces never enjoyed in history. It is made clear here that 18th amendment has never been followed by its true letter and spirit. Provinces have autonomy only on paper but the federal government keeps on interfering in provincial matters or try to squeeze the things where it matters to delay or hinder the powers given to provinces.

Dr Prof Kaleem Bareach shared his views answering a question in an interview about 18th amendment and the federal structure of Pakistan. According to him the federal systems of Pakistan was always based on malice intension to keep all the powers with the central government. This was one of the main reasons for the dismemberment of Pakistan in 1971. He explained further the way educational policy making resides in the federal government though after 18th amendment it is a completely provincial subject.

Ismat Raza Shahjahan gave his analysis on the development which took after the 18th amendment that though 18th amendment was a great milestone in the history of the federation of Pakistan but still it has the issues of practicing the true spirit of provincial autonomy. It is commonly believed that all the major projects must be handed over to the representatives of the people of Balochistan to secure the lost trust in the federal government and to ensure the trust of the common people in the 18th amendment so that Pakistan becomes a much stronger federation in true spirit.

Objectives

1. To highlight the grievances of Balochistan before 18th amendment.
2. To prove 18th amendment is a balancer of power between federal governments and the provincial government by ensuring maximum autonomy to Balochistan.
3. To highlight that how 18th amendment is successfully implemented in a traditional phase in Balochistan.

Research Questions

1. What were the constitutional loopholes in the 1973 constitution before 18th amendment?
2. What are the demerits of the 18th amendment in Balochistan?
3. Is 18th amendment really ensuring provincial autonomy?

Significance of the study

Constitution of any country is the supreme law of the land, it is the constitution which determines the working setup of any state. Pakistan, a federation consisting of four major provinces, share powers with its constituting units and the power sharing formula is enshrined in the 18th constitutional amendment which was passed in 2010. Before 18th amendment the provinces were always in the tug-of-war with the central government for more rights and autonomy. It was 18th amendment which transferred 18 federal ministries to provinces enhancing provincial autonomy and rights.

Methodology

In order to make this research study comprehensive all possible efforts have been made ranging from review of relevant literatures, key informant interviews and focus group discussions. A series of relevant books, research articles, websites and newspapers have been reviewed. Besides, political figures and well informed citizens were interviewed and multiple sessions of focus group discussion were held to muster information and collect primary data. Based on the findings of both primary and secondary data the final research report was prepared to be presented for its readers.

Discussion

Since the very inception of Pakistan the relationship of Balochistan with the rest of Pakistan had been tense. It was mainly because the promises made with the leaders of Balochistan were never fulfilled. It was promised that a true federation would be instated in Pakistan with complete autonomous provinces or federating units but soon after the death of Quaid e Azam and later Liaqat Ali Khan the democratic spirit evaporated and Pakistan became a police state where policies were formulated behind closed doors and army was there to enforce those policies and the people were hardly considered for any opinion. This was the main reason that Pakistan was dismembered in 1971 as the first issue of Language and allocation of seats of the Parliament according to the population could not be resolved with consensus.

No sincere efforts were made to resolve issues. The common people were unheard and experiments were conducted to resolve issues of governance without acknowledging the problems in the first place. One unit was enforced in 1955. Martial laws were enforced. Military actions were taken against the common people to silence their genuine demands of their due rights. The same fate was of the people of Balochistan who demanded provincial autonomy so that they could be the masters of their own land. As it has been seen through history the way constitutional developed and how different constitutions were time and again violated by the military dictators similar was the fate of the people of Balochistan where on their own land non-settlers seem to enjoy the perks of the high officials. Major resources of Balochistan are diverted towards other provinces without the consent of the People of Balochistan. Due to all this the relation of Balochistan with the rest of Pakistan was always a tense one(Jetly, 2009).

Zulfiqar Ali Bhutto tried to undo the concurrent list but failed to do so because of the central bureaucracy which had a very strong lobby with the parliamentarians. Nationalist Movement which was active throughout history turned violent during Bhuttos' time. It is commonly believed that still today even after 18th amendment the Baloch people are discriminated by the Punjab dominated state structure.

Conclusion

Peace and stability in Balochistan will bring peace and stability to Pakistan. Throughout the world it has been proven that more fiscal autonomy would

bring more economic development in the region. Decentralization is the answer to all problems. All the major projects which legally belong to Balochistan must be handed over to its people be that Gwadar, Sandak or CPEC with the supervision of the federal government.

Recommendations

Based upon the findings of this research study, the famous Chinese proverb fits in that “do not give a fish to a person to eat, but let him know how to fish is a sustainable way”. The issue of Balochistan is more or less the same.

There is dire need to mainstream the concerns and reservation of masses in accordance with rights and privileges entrusted to them by the constitution and 18th amendment. Taking arms and joining insurgency will do more harm than benefit the cause. In this whole discussion there are two parties, on one side it is the Federal Government which is like a father of a country and on other hand is it Balochishtan, a rich of resources, federating unit.

1. The central government must listen to the genuine demands of the Baloch people and willingly give them which is rightfully theirs, their due share in the making polices which are guaranteed by the constitution of Pakistan and 18th amendment of 2010.
2. Like a father, the federal government must not exploit Balochistan for it being a smaller and a weaker province. It is the responsibility of the federal government to restore the confidence and trust of the people of Balochistan and bring all the concerned parties closer, the military solutions of certain problems must be the things of the past, political solutions will only last longer.

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