



Scrutinizing the Senate's Impact: Evaluating Federalism's fortification between 2002-2022

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Abstract

This comprehensive study delves into the nuanced impact of the Senate on the fortification of federalism in a critical period spanning from 2002 to 2022. As the upper house of a bicameral legislature plays a pivotal role in shaping federal dynamics, this research aims to assess the Senate's influence on the distribution of powers between the national and state governments. The study employs a multifaceted approach, considering legislative initiatives, constitutional amendments, and political discourse during the specified timeframe. Through meticulous examination of Senate proceedings, debates, and decisions, the research seeks to identify patterns, trends, and key turning points that have influenced the equilibrium of federalism.

By scrutinizing the Senate's role in legislative processes and its interactions with state governments, this study endeavors to provide valuable insights into the evolving nature of federal relations in the given period. The findings of this research contribute to a deeper understanding of the mechanisms through which the Senate has either reinforced or challenged the principles of federalism, offering a nuanced perspective on the dynamics of governance in the examined timeframe.

Key words: Federalism Evaluation, Legislative Impact, Intergovernmental Relationship

Introduction

Federalism is a political setup which consists of more than one level of governments. It involves upper and lower level of governments normally including a central and different states/provincial level arrangements in order to consider the worth of all subordinate political organs. For example, in the case of India, there is one central government and subordinate governments are known as states but in Pakistan these subordinate governments are known as provinces but the picture of political setup is almost same. The same is the case with US where there is one central government under a presidential form of government but the rest of the subordinate governments are in the form of states as well (Ahmad, 2020).

Bicameralism is pre-requisite to ensure the equal footing of the both central and provincial governments. It is considered the central feature of the federalism because it does not allow to concentrate the power at one head rather it includes the different stakeholders i.e., upper and lower houses. It is most suited and well-equipped political system for a country, which has more than one ethnic entities because all of the ethnic identities are addressed under a bicameral political system (Bhattacharyya, 2021). On the other side, bicameralism ensure the smooth continuity of legislation, impartial role of different bodies in legislation process, the balance of

political powers among the different heads, ensures the accountability and transparency. In accordance to above-mentioned characteristics, the bicameralism ensures the democratic process by involving all major social segments in the political process (Brenton, 2022).

In accordance to the fourteen points of Jinnah, it was clearly mentioned that the future constitution of the country will be based on the federalism under which all of the major provinces will be granted specific weightage. But unfortunately, the same political cause was not practiced in Pakistan due to sudden demise of Jinnah and the freedom fighters. The first two constitutions of Pakistan i.e., 1956 and 1962 were based on unicameralism which undermined the democratic political philosophy of Jinnah and ultimately resulted in the separation of east Pakistan. The major reason behind the separation of the east Pakistan was not granting the constitutional rights primarily which gathered the Bengalis under one flag and created Bangladesh from the heart of Pakistan (Amir, 2020).

After the demise of east Pakistan, it was realized that the lack of the political participation of the provinces played the key role in disintegration of country. Hence, the next constitution of the country was purely based on the bicameralism under which two separate houses i.e., lower and upper were proposed (Baloch, 2010).

Senate is the upper body of legislation formed by the equal representation of the provinces without any biasness in Pakistan. it guarantees the equal positioning of all provinces without their proportional weightage in national population. It also ensures the impartiality and second deliberation of the matters discussed in the lower house i.e., national assembly. The national assembly is based on the weightage of the seats a political party holds and shows its supremacy. Likewise, this proportional supremacy helps them to get legislation done according to their desire but under the present federal system the uppers house also has check and balance and ensures the transparency which empowers the provincial stance through senate (Gilani, 2020).

in the post-2010 era, the eighteenth amendment to the constitution further granted the provincial autonomy to the provinces which further empowered the role of senate in the legislation process. Under the clauses of this amendment, the smaller provinces are also taking active part in the legislation of country either the matter belongs to Punjab or Baluchistan. Similarly, all of the major and minor political parties also have equal chances to sworn their constitutional role through senate (Khan, 2017).

Definition of Federalism

According to Stanford Encyclopedia of Philosophy, “Federalism is the theory or advocacy of federal principles for dividing powers between member units and common institutions”.

Historical Background

Pakistan inherited the political system from the British so the political and legislative system is much influenced by the British. The current legislative and administrative system is maintained according the British style which used to be practice by them. The freedom movement was much oriented towards the provincial autonomy which shows that British system experienced less federalism where the provinces were not given the privileges and rights in the legislation process (Khalid 2013). Similarly, before the promulgation of constitution 1973, the same British influenced legislative practice was opted and provinces were not given adequate rights in the legislation. This was not federalism in real sense based on the democratic characteristics rather central government maintained its dominance over the subordinate governments (Khalid, 2013).

After the separation of the east Pakistan, the policy makers and the central government realized the importance of the federalism and established bicameralism system which entrusted to ensure the importance of the provinces as well. Punjab is the largest province of Pakistan by population wise which is why it has the largest share in the lower house i.e., National Assembly. Punjab dominated the lower house because it has almost 58% of the population in the lower house but at the upper house level, this variation does not grant supremacy to the Punjab because all of the provinces are given same recognition at upper house (Rizvi, 2006).

It is right that senate has granted the same share to each province but unfortunately there are also differences in the powers of the lower and upper houses. All of the money bills are generated at the lower house which may again affect the provincial effectiveness. The upper house of Pakistan is facing numerous issues like lack of pluralistic framework and weak and divided political forces. All of the major legislations are initiated normally at the lower house because the it is based on the directly elected candidates form the whole country. On the other hand, the election of the senate is based on indirect method which is another ineffective point of upper house (Rizvi, 2006).

Despite the above-mentioned loopholes, senate has much worth in the legislation process in Pakistan. although it does not have role in the government making or dissolving but its main aim is to overlook the steps initiated by the lower house. Senate maintains an eye on the whole process of working of the lower house and ensures the overseeing in the few matters in particular. The federal matters may be initiated by the both upper or lower house except the money bills sent to the senate after these are passed from the national assembly. The senate ensure the federalism in Pakistan by incorporating all of the provincial entities (Javaid, 2017).

Senate's Role in Fortifying Federalism

the whole of the above discussion elucidates the significance of the senate in federalism in Pakistan. in accordance to the above commentary, it is obvious that senate is striving to build federalism based on the democratic provisions while incorporating the provincial role in legislation. In addition, following are a few prominent aspects which indicates the senate's role in establishing federalism in Pakistan.

Constitutional Framework

first of all, senate is performing the constitutional role because according the constitution of Pakistan there should be bicameral system. Under this provision, the upper and lower houses are established to accomplish the constitutional provisions while undertaking the provincial stance. The inclusion of the provinces through upper house ensures its constitutional role (Kundi, 2002).

Legislation

Legislation is a process through which a country's modes of implications and performing the roles are decided. Before the current constitution of country, there was not such collaborative system. But through senate, the provinces are taking part in the legislation process apart from the national assembly share. The national assembly, the lower house represents the different provinces according to their seats which vary from province to province. But contrary to that, senate provided the equal share to the provinces which they adopt in legislation. Senate ensures the equitable representation to all provinces where Baluchistan which has lowest share in national assembly has same representation like that of Punjab (Mehmood, 2015). Furthermore, after the eighteenth amendment the more provincial autonomy is granted to the provinces which further empowered the senate role in federalism.

Transparency

Through the inclusion of upper house, a transparent system is developed because it overlooked the policies and plans inducted through national assembly. The federal ministers which are selected on the basis of party seats in lower house have to be accountable before the upper house. This is developed a transparent system and allows the federal ministers to work within the constitutional limits. Under this transparent system, the government cannot make desired legislation and adopt the party agenda rather it has to work according to particular framework provided through constitution (Mumtaz, 2016).

Power Distribution

The induction of the bicameralism established a system of power distribution. It ended the monopoly of the central government and devolved the system. The 18th amendment to constitution further empowered the provincial role and distributed the power among the different heads. The distribution of the powers provided two-tiered benefits i.e., on one hand it eliminated the arbitrary system of the policy making and legislation and secondly granted the active role of the provinces. This distribution of power satisfied the minor provinces' that they too have their role in national policy making and implementation (Mangi, 2021).

Constitutional Amendments

The constitutional amendments are made in accordance to needs and requirements of the national interests. The constitution of the democratic countries continues to change which is the changing nature of the society. Like the above dimensions, senate is also taking active part in the constitutional amendments. The senate critically evaluates the constitutional amendments which again ensures the active role of federalism in Pakistan.

Inter-governmental Relations

Senate is composed of all major political parties and the ethnic/provincial entities. The members from all provinces constitute the upper house which provides a way of inter-governmental harmony among the central and provincial governments. Normally, the provincial and central governments do not have smooth relationship because they are different in the terms of political parties (Rid, 2019). It is almost impossible that a single political party has both national and provincial governments across the country. Generally, the political party which forms national government can hardly maintain its governments in one or two provinces so there arises a clash of interest between the central and provincial governments.

Here again, senate plays its key role as a federal organ to establish cordial relations among the above-mentioned governments. The representatives of different provinces sit together and discuss about the dispute resolutions through seasoned representatives. Ultimately, senate plays a prominent role in developing harmonious collaboration among the different tiers of governments.

Challenges to Senate

Despite a number of the benefits of Senate, there are also a few challenges the upper house is facing in the current period. Following are some of the key challenges the senate is facing in Pakistan.

Financial Powers

When constitution provided the bicameralism system, it should also be considered that fiscal federalism should also be involved. But in the perspective of Pakistani federalism, the senate does not have financial powers which is the foremost challenge to senate. All of the money bills

are generated in the lower house and the upper cannot interfere in such fiscal matters which hinders the powers of this house. Federalism means all of the provinces are included in the national policy making and the legislation process but the exclusion from the fiscal matters will affect the functioning of the senate and provincial stakeholders (Mangi, 2021).

This shows that national assembly is leading house in the matters related to finance. At this lower house level, the majoritarian political parties lead such matters and the provinces with lower representation are affected. In the dominance of one or two political parties, only concerned with their respective provinces and rest are ignored. For example, PML (n) is concerned with Punjab, PPP with Sindh, and PTI with KPK. So, the exclusion from the fiscal matters is the primary challenge to the federalism of Pakistan (Khan, 2017).

Majority Rule

The upper house was established in order to address the deprived regions/provinces because the lower house is based on the majority party system. But again, at the upper house level, the majority party dominates and gets the money bills passed from this house. For example, if a political party gains majority at national level, it means it also secured worth positioning at the provincial levels too through which they get their senators selected through their members of provincial assemblies and the game again is based on the majority basis (Shafqat, 2016). In doing so, they concentrate only on the areas from they have majority of the seats and ignore the opposition areas which hinders the social and infrastructural development in such areas. The example of Karachi is evident that in recent past, no political party has extreme majority from this city and no serious efforts are made regarding the issues of Karachi. In result, Karachi became a city of garbage without electricity and clean water. Such matters should be addressed through unbiased role of the upper house but the majority game did not allow to do so and there is shortage of ideological political workers who may turn against the party agenda and talk about the issues of such areas (Sheikh, 2018).

Indirect Mode of Election

Another challenge, the senate is facing is the indirect mode of election. The senators are elected through the votes of the members of the provincial assemblies. On one hand, the members of the provincial assemblies have to follow the party directions regarding the senate election and a senator is selected who even does not have any relation with the politics. This is fact that senator has to compromise with their voters and party directions as he/she cannot turn against the party policies. If the senators are elected on the direct mode of election, the situation of the upper house may be different and the upper house may work in more appropriate ways (Umbreen Javaid, 2017).

On the other hand, the most of the senators are considered just dummies because there are few well-known senators who have political background and know about the political practices. The senate election is considered the game of money because senators are selected through horse trading and after their election, they do not have concern with the areas from where they are selected but to their personal or party agendas only which again hinder the performance of upper house.

Inadequate Accountability

According to the provisions of eighteenth amendment, “the Prime Minister and his cabinet would also be answerable to the Senate along with National Assembly” which shows that the lower house is accountable before the upper house. But in practice, the picture is totally different

because senators of the majority party do not perform their constitutional responsibilities and give in before the directions of political leader. There should be build a neutral upper house which should represent national cause not the political motive so this is another challenge to the upper house.

Lack of Federal Mindset

As in accordance to constitution, Pakistan is a democratic country just like that Pakistan is practice the federal form of government. Neither the democratic characteristics prevailed nor the federal form of government. Actually, the federal mindset is not yet developed in the perspective of Pakistan. legislation is a smooth process through new laws and policies are framed but in the practice of Pakistan, the same is to bulldozing the opposition stance and to get accepted the political agenda of the ruling government. There is vivid lack of federal outlook which needs to be addressed according to democratic provisions (Wasim, 2010).

Conclusion

Senate is the upper house of Pakistani federal system which is established in order to grant equitable resources and representation to the provinces. According to constitutional framework, senate maintains check and balance of the initiatives taken by the national assembly but unfortunately it is not working significantly. It has addressed the concerns of the minor provinces by give them same proportions at this house but the lack of federal mind set, indirect elections and dominance of the majority rule have affected the functioning of senate and its role in granting federalism.

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