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THE DIALECTICS BETWEEN DIVERSITY AND UNITARIANISM IN PAKISTAN

Abstract

To seek unity amid diversity has been the eternal problem of India. The British succeeded in establishing a strong political centre to rule India formally for a century. The legacy of the British for central and south India enabled India to move forward to evolve a democratic polity. Pakistan inheriting a different governance strategy failed to shape the political process into a democratic order. This paper attempts to explain why Pakistan and India emerging from the single Indian political entity and having experienced the same British colonial rule followed different political and federal trajectories. It is argued that a separate Muslim identity was projected from 1857 starting with Syed Ahmed Khan and when Pakistan did emerge in 1947, it had the additional task of nurturing its new identity. Furthermore the part of India comprising Pakistan carried different British antecedents and experience of governance compared to the part that now emerged as the new State of India. Finally, the two countries started with different leading classes, feudal in Pakistan, bourgeoisie in India.

Introduction

As successor states to the British Raj, both India and Pakistan inherited the same federal structures at the time of independence. India, borrowing heavily from the Government of India Act 1935 for its constitution, kept the flavor of federal centrism, yet was successful in operating its political system with formal democracy. The mature and seasoned political leaders, supported by a well-knit nationally organized Congress Party contributed to the political process. Additionally, the secular ideology served as a facilitator in a diverse society like India and absence of any one dominant ethnic group dampened Indian Army's appetite for military intervention. However, the civil bureaucracy continued to play a dominant role aiding and assisting the elected governments over the years.

In obvious contrast to the Indian case, Pakistan took a different constitutional and political route, though sharing the same historical experience with India. In its history of sixty years, Pakistan has changed its governance document from vice regal system to Presidential to Parliamentary to Martial Laws and a hybrid splitting the system between Presidential and Parliamentary tilting the balance of power in favour of the President. This jockeying for power runs as a recurring theme throughout Pakistan's history. Pakistan, unlike India missed out on the contribution that a charismatic leader could have made in stabilizing and consolidating the working of

the political system. Absence of mature political leaders and colleagues of Mr. Jinnah along with a weak and loosely organized Muslim League did not yield the desired political results. The Islamic ideology was used as a national blanket to cover or suppress the ethno – religious, linguistic, sectarian and regional divisions in the name of national unity and integration. The military continued as the most dominant, vested and entrenched interest group in the politics of Pakistan. The legitimization by the judiciary of every military ruler did not help in creating the ambience where rule of law and supremacy of constitution was respected. In the process, Pakistan experienced, ‘guided’, ‘controlled’, ‘indirect’, ‘remote controlled’ or ‘military democracy’. Federalism, though declared as part of each constitution remained elusive, causing alienations among groups and regions resulting in greater demand for autonomy, accompanied by eruption of violence, insurgency and pull towards secession. Pakistan is still a long way from even a rudimentary democracy.

Whereas the above comparison between India and Pakistan is revealing, it is still inadequate in terms of explaining as to why the two countries experiencing the same British colonial rule took different political routes. Scholarly literature on this issue offers different interpretations. This paper, departing from the orthodox and general explanations, seeks to question the thesis of what is described as common British antecedents and legacy. It will be argued that not only the British policies of governance were different for what constitutes Pakistan today than those pursued and implemented for central and southern India but also the dominant political classes of the area partitioned as Pakistan were very different from the dominant ruling classes of India. The political, administrative and security concerns were negotiated from a different set of considerations by the British, for the two regions. Consequently, political norms and traditions of that period had a profound impact on the post 1947 developments in Pakistan including the issue of federalism and constitutional engineering. The colonial legacy of the areas comprising Pakistan impacted the dialectic between state construction and political processes in critical ways. The assessment of the legacy and its role in articulating relations between state and society is a central theme of this undertaking.

Federalism: Conceptual considerations

Federalism is generally viewed as an ideal type of political arrangement of governance which accommodates the diversity of groups and regions to form a political union enabling these identities to maximize advantages by ceding some authority to the centre yet seeking to preserve and keep their separate identity by retaining a degree of autonomy. In this, two obvious but diverse political trends are discernible; urge to cooperate for mutual advantage and strong penchant to preserve socio-political, ethnic and regional identity and some space for political action. These two trends meet in an uneasy interaction in many federally organized states resulting in civil wars, secessionist movements and in the case of Pakistan to actual secession.

The widely cited example of a successful federal system is that of the United States. The route followed in this case was unique. Thirteen American colonies first declared independence from the British colonial authority to establish a confederation in 1781. Subsequently, these states decided to convert the confederation into a federation under the 1789 constitution. The fear of a 'majority rule' kept lurking in the minds of political managers. Despite the safeguards ensured under the American Constitution, the principle of separation of powers, bicameral legislature, a strong upper house etc, a bloody civil war was fought (1860-65) on an economic issue eventually to save the Union.

Another illustration is that of an existing unitary state that opts for a federal system by formally dividing power between the national/federal government and the smaller administrative units like provinces in order to ensure sustainability. This approach was followed by Canada when it adopted the federal system in 1867. Australia also embraced federalism in 1901 on the same pattern.

The case of India and Pakistan falls in yet another category. The British Raj driven by its imperial policies and compulsions created a 'special type' of federal system in its colony. Introduction of this system through devolution, decentralization and autonomy to the administrative units of provinces was provided within the trappings of the vice-regal system. A federation was established under the Government of India Act 1935, comprising of the provinces and the princely states. Even the tribal areas were given a special dispensation. The federal system outlined in the Government of India Act 1935 was the one inherited by India and Pakistan at the time of independence in 1947. Pakistan continued to be governed under the Government of India Act 1935 with minor modifications till 1956. However, the rulers in Pakistan did not realize the significance of preserving cultural and political diversity within the boundaries of the country and they at the very outset imposed a single national language Urdu and Islam as instruments of national unity.

Pakistan Movement and Requirements of a New National Identity

In order to create a separate country from a single historical entity a separate single identity was required. The process started a century before the creation of Pakistan. In the run up to federalism enshrined in the Government of India Act 1935, the Muslim community had acquired 'orientations' different from the majority Hindu community. Syed Ahmad Khan, a leading political thinker, leader and activist wanted the Muslims to recognize that they had their own special interests which must be secured and promoted within the constraints of the available political environment. He, repudiated the Congress claim that India was 'one nation'. His contention was that "India is inhabited by different nationalities", they professed different religions, spoke different languages, their ways of life and customs were different, their attitude towards history and historical traditions were different. There was no one nation in India, (Allana 1977:3) and Congress, therefore, could not claim to be the spokesman of so many nationalities.

Conscious of its minority status, the Muslim community did not respond favourably to the introduction of Western representative system of government in India, which suited the Congress ideally. Syed could clearly see that such a system was bound to reflect the domination of the Hindus, the majority community, over the Muslims. The Hindus would obtain four times as many votes as the Muslims because their population was four times as large. "It would be like a game of dice, he argued, "in which one man had four dice and the other only one" (Fatehpuri 1982:36-37). These concerns guided Syed Ahmad Khan to mobilize the Muslim community in the immediate post 1857 period.

The minority status within the parameters of representative system of government incrementally introduced through various constitutional instruments by the British pushed the Muslims to seek guarantees and safeguards against the prospects of majority Hindu rule. The Muslims moved politically to form The All India Muslim League political party to articulate their demands. Very soon, the Muslim demand for 'separate electorate' was accommodated in the Government of India Act 1909. This, however, became a contentious issue between the Hindu and Muslim communities particularly after 1920 and the Indian National Congress consistently opposed the separate electorate throughout except conceding it only once in 1916 in the Lucknow Pact.

Another political strain running throughout the Muslim politics was to secure autonomy of the provinces within the orbit of federal setting with maximum number of provinces obtained for the Muslims. Mr. Jinnah in his famous 'fourteen points' insisted on Muslim majorities in the legislature of Punjab, Bengal and North West Frontier Province (NWFP). There was demand for creation of a new province of Sindh separated from Bombay Presidency. He urged for reforms in the NWFP and Balochistan along the same lines as in other provinces. The import of these demands was to strengthen provinces, especially the Muslim majority provinces, against the prospects of Hindu majority threat at the Centre, (Mujahid 1981: 473-481)

The Government of India Act 1935 promoted a Federation with a strong unitary bias. The Act not only empowered the centre to legislate the federal list of subjects but also the concurrent list if so decided. The Act did not protect provincial autonomy as the ministerial functions were restricted by the authority of the Governor who was representative of the Governor General. The Act did not allay the Muslim apprehensions articulated all along and the Muslims were reluctant to submit to a central government dominated by the Hindu majority community. They were conscious of the fact that they could never turn the majority rule into one of concurrent majority rule. Therefore, Jinnah condemned the Act saying that "it was devoid of all the basic and essential elements and fundamental requirements which are necessary to form a federation", (Ahmad 1968: 9). The Congress rule in seven of the nine provinces brought out the excesses of majority rule and confirmed the Muslim fears that the minority would suffer at the hands of majority. Consequently the Muslims demanded in the Lahore Resolution of 1940 that the Muslim majority provinces be autonomous and sovereign.

The dominant political trends which emerge from the above discussion are that the Muslims did not welcome the form of representative government introduced by the British and they did not agree with the concept of governance embodied in the Government of India Act, 1935 as it would condemn them to a permanent minority status. This inevitably had serious and far-reaching implications for the post 1947 governance paradigm for Pakistan.

Second, while it is true the Government of India Act had a strong unitary bias it was not applied across the board. Princely states and tribal areas were exempted. Even in the provinces where it was applied, different strategies were used to accommodate and use the class, cultural and historical trends of the areas.

Historical political diversity of constituent provinces

In Balochistan the imperialistic interests demanded a different policy for managing the tribal conflicts and establishing law and order. The treaty of 1876 to be called the Sandeman system or the “forward policy”, aimed at recognizing the Baloch and Pukhtun tribal chiefs and payment of allowances to them for the purposes of raising levies paid handsome dividends. Richard Bruce, who worked under Sandeman, made a profound observation that, “we have bound Waziristan hand and foot and thereby pledged to mould our policy on such lines as will afford the Maliks efficient support and protection”, (Bruce 1900:298).

British law never penetrated Balochistan tribal areas and the various Constitutional Acts had no impact on them. The tribal chiefs were free to administer their areas according to tribal customs. Additionally, these areas served as a cushion against invasion from the north and it was expected that they would serve as the first line of defence. Balochistan was controlled from the centre and the situation did not change until 1970, when it was granted the status of a province, despite the fact that its area constituted 40% of present day Pakistan’s total area with only 5% of population. Ironically, All India Muslim League demanded provincial status for Balochistan from 1927 onward but, after independence, the same was delayed till 1970 and hence it missed out on the impact of British laws and constitutional developments.

The British policy towards Western Punjab rested on a three pronged strategy. First, it sought to stabilize and consolidate the land owning class. Though Punjab was considered to be a province of small proprietors, the distinction of Western Punjab from the remaining part of the province was the dominance of the landed aristocracy; “at a guess about 40% of the cultivated area is in the hands of men who own over fifty acres”, (Darling 1932:102-103). Additional Jagirs and squares of land were granted along with titles.

Secondly, an important political move by the British was the launching of the Punjab National Unionist Party in 1923 with official blessings. This had serious implications for the governance of this area. The Unionist Party, it is amazing to

note, continued to rule Punjab from 1923 to 1946 and carved out a separate role in alliance with the British establishment. In the elections of 1937, the All India Muslim League could win only two seats in the Provincial Assembly. One of these two legislators crossed the floor leaving Maulana Barkat Ali as the only member. Mr. Jinnah had to reach an understanding with Punjab Unionist leadership league that goes under the title of Khizar–Jinnah Pact 1944. This style of governance prevented both the All India Congress and particularly the All India Muslim League from playing an effective role in the Muslim majority Province. In other words, Punjab was kept aloof from the mainstream politics of British India.

Thirdly, the most important decision of the British policy was to recruit the army from this area. The obvious advantage of the Punjabi dominant military force was that it could be deployed in the rest of India without facing the prospects of disobedience or disloyalty; a masterly stroke of strategy which paid dividends to the British. Pakistan inherited the same dominant Punjab and Pathan military force which dictated the course of events in the post 1947 period. From one particular perspective the army as an institution became the key variable in the body-politics of Pakistan.

The North West Frontier Province (NWFP) was the last area to be annexed by the British. Politically, the NWFP comprised the tribal areas of Malakand, Khyber, Kurrum, North Waziristan and South Waziristan and the settled Districts of the then Hazara, Mardan, Peshawar, Kohat, Bannu and Dera Ismail Khan. The tribal areas were left to be administered by the tribes and were divided into agencies each with a Political Agent serving as a liaison between the British government and the tribal chiefs. The settled areas, however, became part of the British administrative structure. This development came rather late to these areas and even the Government of India Act 1919 was not introduced in the province till 1932. Obviously, the province lagged behind the rest of India in terms of constitutional evolution.

Sindh was part of Bombay Presidency despite the Muslim League's demand of making it into a separate province. Living in the backyard of Bombay, the people of the area never experienced the vibrations of the developed area. The dominance of landed class kept it in a backward state. After acquiring the status of a province in 1936, it had only 11 years of political and administrative experience before the establishment of Pakistan.

East Bengal, which later became East Pakistan had a different political and constitutional evolution. It was the first area to encounter the British on their arrival. It also underwent land reforms, exposure to educational institutions, and trade and commerce which all put together, gave the people of this area different orientations. It experienced the partition of Bengal (1905) and the Swadeshi movement, the annulment of Partition (1911), establishment of All-India Muslim League in 1906 at Dhaka and subsequent developments which all gave its people different political

attitudes. The union of this province with the Western provinces of Pakistan into a single country had serious implications for later political developments.

The above discussion demonstrates that the British paradigm for governance for the areas constituting present day Pakistan was different from the rest of India. It further suggests that the colonial legacy was not uniform across India. This distinction is critical in examining the post-1947 political developments in Pakistan.

The other scholarly work on this theme has been produced by Ayesha Jalal, in her widely acclaimed yet controversial book, entitled 'Democracy and Authoritarianism in South Asia', (Jalal 1995). In her brilliant expose, she treats British India as one entity and applies the British legacy across the continent in the context of governance paradigm. Unable to make a distinction about British policies regarding different parts of India, Ayesha's comparative study of South Asia focuses on 'Structural functioning' in these countries to be seen as continuation of the British legacy. She obviously discerns a striking similarity of 'authoritarianism' across these countries but India was successful in fixing a democratic veneer over its authoritarian structures. However, it is interesting to note that the Indian democratic set up has mediated with authoritarian structures effectively so far.

Constitutional development since independence

At the time of independence, Pakistan adopted the Government of India Act 1935 with minor changes to be its first interim constitution. Having failed to frame a constitution for almost a decade, the inherited vice-regal system continued to be the governance document. During this period (1947-56) attempts were made to plant the parliamentary system within the confines of an imperial order. But the feudal hold on political power backed by imperialism precluded all forms of democratic progress.

The first constitution of Pakistan (1956) was drafted by Chaudhry Mohammad Ali, a civil bureaucrat turned politician. The first article of the constitution referred to Pakistan as a Federal Republic. The preamble of the constitution stressed federalism but in the absence of the rule of law and the social classes to enforce it was a federal constitution merely on paper.

The Government of India Act 1935 was diluted somewhat in terms of allocation of subjects between the centre and the provinces. But before the 1956 constitution could be implemented by holding general elections, Martial Law was imposed in October 1958.

The second constitution was framed in 1962, this time, by a military bureaucrat, Ayub Khan. This constitution did not refer to the federal system as mentioned in Article 1, which officially described the name of the state. The preamble, however, mentioned the federal system, delineating the relationship between federal government and the constituent units of the federation. It created a powerful centre

with concentration of power in the office of the President and an impotent unicameral legislature. The Provincial governments were headed by the Governors, who as nominees of the President also enjoyed enormous powers. Lip service was paid to federalism but in reality a more centralized system was put in place.

After the highly centralized rule of a decade, Pakistan moved into another phase of Martial Law rule, where power was concentrated in the army chief and the institution of army. The authoritarian style of governance continued until the country's break-up in December 1971.

In Article One of the 1973 Constitution, framed under Zulfikar Ali Bhutto's leadership, Pakistan is mentioned as Federal Republic to be known as the Islamic Republic of Pakistan. The preamble also recognizes federalism as one of the organizing principles of the state.

The 1973 Constitution is characterized by the absence of Provincial List of subjects and provides for a Federal List of 59 subjects and a Concurrent Lists of 47 subjects, In case of conflict the federal law prevails over the provincial legislation. The sixth and seventh schedules of the 1973 Constitution place additional restrictions on the legislation powers of the Provincial Assemblies.

For the first time, a bicameral legislature was provided to accommodate the federating units. The upper House called the Senate, had limited power and had no effective role in the passage of the budget. Pakistan has the unique distinction of passing the budget in the same way as provided in the colonial Government of India Act 1935. The budget is divided into charged and non-charged categories. The charged items include the Defence, President, Governors and debt-receiving expenditure which is mentioned as one liner statement and cannot be debated on the floor of the house. Additionally, the centre picks up 90% of the revenue.

The introduction of 8th amendment under which the President on his own can dissolve the National Assembly, tilted the balance of power in favour of the President. This power of the President was briefly taken away during Nawaz Sharif's second term as Prime Minister but has been reintroduced through 17th amendment under Musharraf regime. The 1973 Constitution now functions as a hybrid system and its parliamentary aspect of working have been seriously undermined. The federation operates under the overwhelming authority of the centre, in fact under that of the President.

The constitutional developments in Pakistan suggest a movement towards establishing a strong centre ostensibly in its bid to ensure survival. This instinct for survival led to a India centric policy which moved Pakistan to enter into various security and defence alliances. The extended military rule of some 34 years enabled the dominant military to expand its tentacles to develop corporate interests. Ayesha Siddiqi in her recent book argues how the power of the military has transformed Pakistani society, in which the armed forces have grown into distinct class

entrenched in the corporate sector. This intensifies the interest of the military in remaining in power or when not in power and indirectly control governance (Siddiqa 2007:2). The serious imbalance between the institutional and politico-economic role of the army and the weak and in some cases dependent political parties does not augur well for the restoration of a genuine democratic process in Pakistan.

Conclusion

The British were able to rule as diverse a place as India because they allowed this diversity to reflect in administration and governance. The British Raj driven by its imperial constraints and compulsions created a special type of federal system in India within the trappings of the vice-regal system. A federation established under the Government of India Act 1935 comprised provinces, princely states and more or less autonomous tribal areas.

Unfortunately the ruling elite of Pakistan was unable or unwilling to learn from the above mentioned British historical experiences or from the historical, cultural and political differences of entities comprising Pakistan. They were driven by the need to forcibly forge a single Muslim identity through the instrument of Urdu and Islam and patriotic militarism as continuing basis for the state of Pakistan. Space for political and national debate was eliminated, ostensibly, in the name of Islam and national unity. The state became a hostage to incompetent feudals, corrupt bureaucrats and the centralist demands of a short-sighted military all seeking to serve their vested interests.

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