

DATE: _____ DAY: _____
→ Make a survey of Constitutional Development of Pak (past paper)
OR
Discuss Evolution of Federalism in Pakistan.
with reference to Constitutional and political
development from 1956 till date (past paper Question)

INTRODUCTION

The Indian Independence Act 1947 not only ended the British rule but also partitioned the country into two states: India and Pakistan. While the Indian Constitution was enacted in 1949, it took Pakistan nine years to adopt its constitution. Despite adopting extraordinary arrangements, the Federation in Pakistan was subjected to repeated instances of collapse due to various multifaceted issues. Hence, an evolutionary perspective on Constitutional and political development of Federalism in Pakistan is crucial to be traced.

FROM WHERE THE IDEA OF FEDERALISM CAME?

→ AN OVERVIEW ON THE ORIGIN OF FEDERALISM

1. The British government set up federal institutions in India, as it did in other colonies (Canada, Australia, Malaysia).

2. Minto-Morley Reforms (1909) laid the foundation of Federal institution in India by providing political representation to religious minorities in the Central and provincial legislatures.
3. Lucknow Pact of 1916 granted Muslims with non-territorial autonomy & power sharing.
4. Government of India Act (1935) provided limited autonomy to the provinces by establishing "Dyarchy system" — served as basis for federal institutions in India by granting certain autonomy to provinces.
5. Government of India Act 1935 provided for shared authority between the Federation & the provinces. Although in true essence, the federal powers were so wide-ranging that provinces had in actual ~~real~~ very less autonomy.

CONTROVERSIES OVER FEDERAL DESIGN IN THE NASCENT STATE OF PAKISTAN

a) THE OBJECTIVE RESOLUTION AND THE CONSTITUTION OF PAKISTAN

After the establishment of Pakistan, a constituent assembly was formed which had

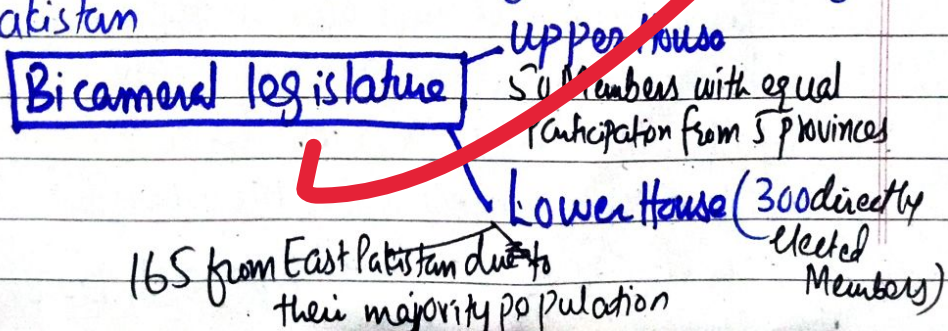
to pass the Constitution of Pakistan. The Objective Resolution passed on 12th March, 1949 set forth the principle for constitution based on federal structure. The "The Basic Principles Committee", (BPC) formed by Constituent Assembly, submitted its report on October 7, 1950 that received wide criticism resulting in withdrawal of report and framing of another report in 1952 during Interim period of Khwaja.

1) MAJOR CRITICISM ON THE BPC REPORT

1. Bengali criticized the first report because BPC did not adopt Bengali as lingua franca and also it did provide substantial autonomy to province of East Pakistan.
2. Over the 2nd report, ^{politicians} Punjab made criticism that dividing the country into units will lead to East Pakistan's dominance over West Pakistan.

b) THE BOGRA FORMULA'S AIM TO RESOLVE THE CONSTITUTIONAL IMPASSE

Muhammad Ali Bogra became the PM of Pakistan after replacing Khwaja Nazimuddin in 1953. His "Muhammad Ali Formula" presented these proposals for the Constitution of Pakistan



→ No bill would be passed in joint session unless 30% of total members from each zone supports it.

→ Both Urdu and Bengali: Official languages
Unfortunately, this assembly was dissolved before it could enact the constitution because it attempted to limit the power of Governor General.

3. THE ONE UNIT SCHEME: A TOOL FOR CENTRALIZATION AND PROVINCIAL SUBJUGATION

Another step changing the center-province relation and was implemented by Muhammad Ali Bogra to simplify the administrative structure. Through One Unit scheme, the provinces of Punjab, Sindh, NWFP and Balochistan were merged into single unit of West Pakistan to strengthen the center control over the Western Wing. While the East Pakistan felt it would lead to further marginalization of East Pakistan. From 14th October till 1970, there was ~~Unit~~ One Unit Scheme.

The most unpopular event in Pakistan's history occurred in 1955, when all federating units of West Pakistan and some princely states were merged under one-unit scheme (A&Sial, 2008)

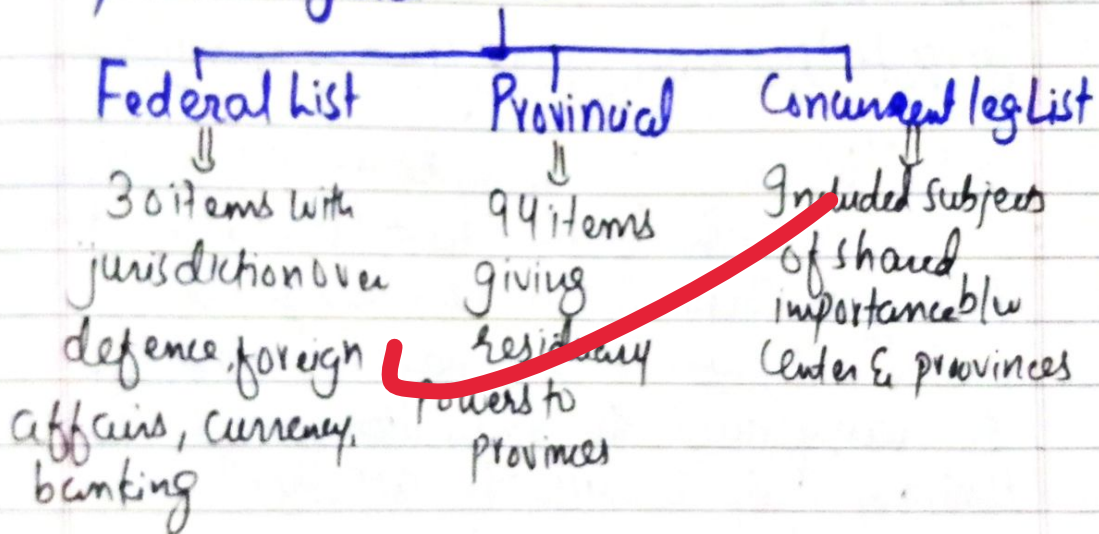
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4. QUASI-FEDERALISM UNDER THE 1956 and 1962 Constitution

a) KEY FEATURES OF 1956 CONSTITUTION EXHIBITING FEDERAL STRUCTURE

On the face of 1956 Constitution, there were features of federal structure like written Constitution, division of powers between center and provinces, a dual polity and Supreme Court.

b) Three legislative lists



c) A Unicameral legislature, contrary to Federal traditions

It is noteworthy that this Constitution consisted of Unicameral legislature, the National Assembly of Pakistan that had 300 members equally distributed between East & West Pakistan.

d) Political instability leading to abrogation of Constitution of 1956

Unfortunately, Pakistan's early years were characterized by political instability. Under the 1956 Constitution, ~~four~~ coalition cabinets were established between 1956 and 1958 but all failed to implement true federalism and democracy in Pakistan. Martial law was imposed in October 1958, and Ayub Khan assumed power.

5. AYUB'S REGIME AND FEDERALISM IN PAKISTAN: (Constitution of 1962)

a) PAKISTAN'S FEDERATION TRANSFORMED INTO A UNITARY STATE UNDER PRESIDENTIAL SYSTEM

During the Ayub's period, ^{under the Constitution of 1962} Presidential ^{under his rule} form of government was introduced which vested all power in the hands of President. It transformed the Federation into a Unitary State, because the appointed governors of ~~both states~~ provinces were held accountable before President and not before the electorates of respective provinces.

b) Separation of the East Pakistan as a result of Centralization of Political Power

The centralization of political power led to feeling of marginalization among the people of East Pakistan.

With loss of national integration, the Bengalis pursued autonomy of rights exacerbated by Constitutional crisis and 1970s elections that led to their separation in 1971, which is still a stain on the Federation of Pakistan.

6. FEDERALISM UNDER THE 1973 CONSTITUTION

Following the separation of Bengal in December 1971, the military regime handed over power to Zulfikar Ali Bhutto, who became the Civilian Martial Law Administrator. Under Interim Constitution of 1972, Bhutto took over as President of Pakistan. Despite the hostility between provinces and the government ^{over} the dismissal of provincial governments from Balochistan and KPK, the National Assembly of Pakistan unanimously passed the 1973 Constitution on April 10, 1973, and it came into effect on August 14, 1973.

Salient Features of the Constitution of 1973

1. It divided powers between federation and provinces
2. Two legislative lists i.e. Federal list and Concurrent legislative list with subjects on which both center and provincial legislatures have authority to legislate
3. Marked an important step towards maximum authority as compared to 1956 & 1962 Constitutions.
4. Bicameral legislature consisting of National Assembly & the Senate

ADDITIONAL MEASURES TO STRENGTHEN SHARED RULE IN 1973 CONSTITUTION

Pakistan's 1973 Constitution established the following for resolving conflicts among the Federation and provinces.

- Council of Common Interests (CCI) → as a forum for resolving conflicts between states & units.
- National Finance Commission → to distribute funds between Federation and provinces, as well as between provinces.
- National Economic Council → Developing financial commercial, social, and economic policies.

7. THE 18th AMENDMENT & POLITICS OF FEDERATION

The President of Pakistan Asif Zardari appointed a Special Parliamentary Commission comprising 27 members for the 18th amendment in the Constitution of Pakistan. This amendment has granted more provincial autonomy to the units and has far-reaching consequences on federal stability in Pakistan.

SALIENT FEATURES

a) Abolishment of Concurrent legislative list

The most important provision was abolishing

Noncurrent legislative list that was comprised of 47 subjects. These subjects were transferred to provinces except for 3 subjects that were put in Federal legislative list.

- Food and Agriculture
- Health
- Education
- Sports & Culture
- Tourism
- Zakat & Ushar
- Social Welfare & Special Education
- Population Welfare
- Minorities
- Women Development
- Livestock & Dairy

b) Strengthening the Senate of Pakistan

Senate of Pakistan, significant for ethno-regional parties, was strengthened by increasing its working days from 90 to 110 and submission of report date extended to 14 days. It was also given power to role in appointment of judges of superior courts.

Discuss and add the critical analysis part as well. What future holds regarding this as per you

CONCLUSION

In the evolution of federal structure, Pakistan has faced several challenges over the difference of opinions and vested interests of political parties as evident in various constitutional and political development. After adopting 1973 as Official Constitution of Pakistan, the 18th amendment passed in 2010 proved a milestone in strengthening the federal structure leading by devoting maximum powers to provinces. Hence, the essence of federation strengthened after a long journey.

Add more arguments in this part