Centre-Punjab Relations, 2008-2013: A Critical Reappraisal

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This study attempts to understand the dynamics of the Centre-Punjab relation from 2018-2013 which are of immense importance because during this period PPP was in power in the centre and PMLN dominated the political affairs in the province of Punjab and this was a unique period of Pakistan history of federation in Pakistan. History of Pakistan reveals that Federal structure in Pakistan has been evolving and sometimes getting refined shape and sometime vice versa. But federal system during the period under discussion got maturity and refinement, due to variety of factors. It is generally perceived that federal structure got improved because the PMLN and PPP respected and honoured the Charter of Democracy signed by both the parties, therefore they mainly focused on the policy matter and tried to avoid petty issues. It was because of their mutual understanding and consensus that they passed the 18th Amendment, and other resolutions and legislations of national importance and of common interests, were proved in the National Assembly. These constitutional and political developments in the centre helped to create conducive environment for greater working relations between the centre and provinces. However, there were few irritants that were observed from 2008 to 2013 between the federation and Punjab and those irritants weakened the working of the federal structure. Sometime it appeared that the working relations between the Centre and Province had disturbed if not halted altogether which directly impacted the socio-economic and political development in the country. The more the federation tried to tighten its grip over provincial matters, the greater was the negative effect it caused on the working of the federal system. The Punjab government under Mian Shahbaz Sharif took strong stand about some issues, and even he went to that level that the Chief Minister refused to accord official protocol to the Prime Minister of Pakistan which was unfortunate phenomenon and spoiled smooth working of the federal system in Pakistan. Therefore, it is significant to understand the factors that caused irritants between the federation

and the Punjab and how both reacted to them and what were the implications of these irritants. The study will try to find answer to the following queries: What was form and shape of the federal structure during the period under study 2008-2013 and what role did political parties play to strengthen the federal structure and how the centre dealt with the Punjab and why Punjab showed agreement and disagreement over the issues. This study will try to point out the main irritants between the centre and Punjab which weakened the smooth working of federal system.

Introduction

It is generally believed that due to the result of Charter of Democracy (here on referred as COD), both parties cohesively worked for the improvement of the constitution, democracy and the federal structure of Pakistan. However, there were many issues between the centre and the Punjab which arose during the period under discussion; the followings were the most important irritants: there were disagreement about the mode, method and timing of restoration of Judiciary, how to eliminate corruption in the country, how to cope with the energy crisis and to address extremism, Memogate, Raymond Davis, Abbotabad Operation, Swiss Account cases and dismissal of the Prime Minister of Pakistan. These were main irritants, along with other minor issues, that caused estrangement between the centre and the province. Much has been written on the federal structure and federal history of Pakistan yet the historians have not academically penned upon the period under discussion. Therefore, this study has been made to explore, investigate and analyze the system of federalism in Pakistan with a focus on centre-Punjab relations from 2008-2013.

After the restoration of the judiciary, the role of judiciary became hyper active and there is a strong narrative that judiciary under Iftikhar Muhammad Chaudhary came under a phase of strong judicial activism. The general understanding about the period under discussion that federalism turned weak due to the continuous tension between the ruling parties of the center and the province of the Punjab and Punjab was assertive as traditionally we see its role during the period under discussion too. As soon as the judiciary was restored, it took many a cases and decisions those were facilitating the party in power in the Punjab. The details of the cases show that many of the cases were on merit particularly after its restoration by the end of March 2009, the judiciary took action against the Governor Rule in the Punjab and the government of the under Shahbaz Sharif was restored. Similarly the review petition was taken about the cases and the punishment to Mian Nawaz Sharif made during the days of Musharraf and the cases were not only declared bogus but punishment was also annulled. It is a point here that though all this development was going on at one side but at the broad canvas of the country, Punjab and centre not only coordinated but federalism also was strengthened. The judicial activism at one side facilitated PMLN, (due to some court decisions) however this active role could not affected the smooth working of the federation of the country. One can quote examples to prove the point that the judicial activism in the said period though hardened the centre province relationship but at the larger framework federalism was strengthened.

Judicial Activism

Judicial activism, a term became popular during this period, because apparently the Chief Justice of Pakistan, judges and lawyers became too active in the constitutional and political process of country. The Judicial activism can be described as a judicial review, which can further be explained as a description and explanations of judicial decision done by the courts. It is observed that in judicial activism the judge consider himself more important to explain the constitutional matters and order the executive for further necessarily action. In judicial activism the highest apex Court (Supreme Court) make standards keeping in view the constitutional modalities. In Pakistan lawyer's movement turned into judicial activism first in the period of Iftikhar MohmmadCh and then it attained higher degree of judicial activism in the period of SaqibNisar. In fact, executive of PM Nawaz Sharif and later on Abbasi became helpless. As a result Iftikhar M. CH. decisions became matters of intellectual debate especially this point is still in debate whether the Supreme Court has abused its authority or has gone with the constitution.¹

A strong movement had been launched by the lawyers and civil society along with the important political parties for the restoration of the judges which were deposed by General Musharraf in November 2007. Though Musharraf was replaced by Asif Ali Zardari but PPP did not restore the judges, for the unknown reasons, therefore, this created conflict between PPP and PMLN. The fluid situation turned into an irritant between the federal government and the province of the Punjab.

Restoration of Judges

The crisis of judiciary was one of the corollaries of the political fight between the president General PervaizMusharrif and the CJ of the Supreme Court of Pakistan, which resulted in the dismissal of Chief Justice Iftikar Muhammad Chaudhary from his constitutional responsibilities in Pakistan. The changing of the government after the election 2018 new government of President Zardari came to power who reinstated the sacked chief justice after a great hue and cry and pressure from inside and outside of the country. The long march and the political pressure from various quarters compelled the government to restore all the judges of Supreme Court to the original place. Consequently, on 16th March 2009 at last, the demand of public materialized in the form of restoration of judges of Supreme Court. It is tantamount to saying that media role was conspicuous in this struggle which cannot be underestimated. It received high outrage in local and international media. For them it was struggle to protect democracy in Pakistan and to avert the anti-democratic moves of dictatorial regime. Eventually, the media, the public and the democratic parties successfully won this battle.

The bone of contention of this issue was the tussle between the Chief Executive General PervaizMusharif and the chief justice of Pakistan Iftikhar

Muhammad Chaudary which resulted into the dismissal of the later. The judicial crises started on March 9thNovember 2007 which caused certain constitutional challenges in Pakistan. The case of chief judge was sent to the judicial council which is the supreme body to adjudicate such cases regarding judges. The cases often sent are pertaining to malpractices and illegalities while conducting constitutional duties. On 20thJuly 2007, through the historic decision of supreme judicial council judges were restored to their respective places. Consequently, nation as a whole celebrated this victory. But, soon after a new development took place in which on 3rd of November 2007, President of Pakistan by using his special powers again dismissed all the judges of the supreme court of Pakistan including the chief justice. He appointed new judges and new chief justice of Pakistan. There was again protest by the lawyers and civil society throughout the country. The central point of the national wide protest was again for the restoration of judges which later shaped as election campaign of many political parties in 2008 elections.²

In 2007 Benazir Bhutto was invited by supporters with uproarious trademarks at the air terminal and she remained in her plane for a long time and after that she was headed to her habitation in Karachi. By November 8, 2007, Benazir Bhutto was constrained for house capture by the administration of Pakistan.

There was a story in the Guardian on 23 November 2007 that Mian Nawaz sharif would come back to Pakistan after the ruler of Saudi Arabia have supposedly disclosed to General Musharraf that they couldn't keep him in Saudi Arabia. So Mian Nawaz Sharif returned and arrived in Lahore on 25 November 2007 out of a Saudi airspace. He was joined by his wifeKulsoom Nawaz and more youthful sibling Shahbaz Sharif. On his entry to Lahore, he was warmly invited by the supporters of his city. He stated that he wished to reestablish majority rules system from fascism, however did not state whether he would boycott the decisions of election in January. Bhutto had as of now field assignment paper. Sharif recorded assignment papers the day after his arrival, yet said that he would not fill in as leader under Musharraf.³

In this environment all the political parties were using slogans to gain the sympathies of the voters against the dictator.⁴ After the elections of 2008 the parties who came in the parliament promised to restore the judiciary. There were also slogans to get rid of the vicious policies of the dictator and to create unity. The new government was established in a coalition with PPP as a majority party in the parliament. Seemingly, N league was adamant to the cause of judiciary and any compromise on this issue was out of question. Unlike the coalition n league, ppp was reluctant to restore judiciary. Resultantly, N league resigned from the coalition government owing to the policies of PPP towards the judicial crisis. They joined the opposition benches in the parliament. During the mean time some of the deposed judges were restores/reappointed by the PPP government excluding the chief justice Iftikar Muhammad Chaudhary.It is alleged that Asif Ali Zardari

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denied the restoration of the chief judge.⁵ Newly appointed judges of Supreme Court took new oath of theparliament.

Amid the adamant and reluctant attitude of government towards non restoration of Chief Justice the lawyers' movement continued with greater zeal. Apparently government dealt with the situation unconstitutionally which bore various constitutional challenges. Although government made various false promise prior elections but did nothing in this context after winning the elections and emergence as majority party. The declaration of an established bundle for the rebuilding of legal was completely dismissed by other political gatherings as just a political stretch. The then law serve Farooq H Naik, said that the legal couldn't be reestablished illegally and hence, the most ideal path forward was to present an established bundle. As per him, rebuilding through the national get together by methods for a basic determination would be illegal.⁶

The justification of lawyers was crystal cleared according to their view point the judges were still in oath and there was no need of any fresh oath. For them the judges who took fresh oath under new setup are unconstitutional and they had betrayed the lawyers community. Moreover, for them the formula presented by the law minister was to bluff the nation and it main mission was to exclude the deposed chief justice Iftikhar Muhammad Chaudhary. The reinstatement of Chief Justice Iftikhar Mohammad Chaudhary seemed have bothered the existing government of PPP. The fears of judicial activism for them might be the real hurdle in the ways of PPP government illegal polices which later happened. A powerful judiciary was seen suspiciously by the PPP government that's why the rulers were not in mood to restore the chief judge. It was a general perception that a conspiracy was being hatched against the restoration of Justice Iftikhar Mohammad Chaudhary, as the government of PPP had refused to reinstate him. It was believed that the restoration of Justice Iftikhar would strengthen all the judicial structure, and the government was showing a visible reluctance towards the independent of the Judiciary.⁷

Many in Pakistan and abroad sensed the proposed package of PPP as eyewash in order to deceive the public. It was not aimed to solve any problem. The persistent and consistent resistance of government on the issue of restoration of chief justice continued. During the protests and widespread demonstrations caused huge destructions to economy and further deteriorated the already crumbling situation. The devaluation of Rupee and tainted image of Pakistan resulted in this filthy scenario. "If the restoration of judges had been achieved the first day, or at least the second or third day, the country would have been in a better position to cope with other very serious problems."

The future of federation of Pakistan was at the state in the midst of these constitutional and judicial crisis. Judiciary is not only considered as the guardian of constitution but also as the supreme arbitrator on the issues of federation which arise between federal units and central government. The ongoing judicial crisis was in fact a bad omen for the survival for a strong federation. There was dire need of a "strong judicial system which was essentially missing; restoration of the judiciary

is intrinsically linked with its independence and certainly it was vital for the country."9

The powerful establishment of Pakistan seemed made compromised settlement and thus General Kiyanireceived three years of extension on the will of army through the President which was unconventional method. ¹⁰In fact, constitutionally only Prime Minister could give extension in the service of the army chief but Kiyani got extension through the president. Therefore, General Kiyani's influence on rest of all governmental matters remained on the civil government.

The MemogateScandal

The Memogate controversy came in the limelight and got the public attention by October 2011. MansoorIjaz a US Pakistani businessman wrote an article in the Financial Times in October 2011. The Memo controversy concentrated around a letter of memorandum written by Hussain Haqqani¹¹ on the behest of Asif Ali Zardari, the President of Pakistan to the US authorities and Obama administration. In this memorandum Admiral Mike Mullen was addressed and according to Memo, Pakistani civil government was trying to seek support of the US Obama administration to avert any kind of military takeover in the wake of Osama Bin Ladan raid of US troops in Abbotabad. In October the question remained whether the memo exists or not however it was published in November. It was followed by the resignation of Ambassador Hussain Haqqani and a case in the Supreme Court of Pakistan.

PMLN took the issue into the Supreme Court and filed a petition about the investigation of Memogate scandal. The Supreme Court accepted the petition and opened a larger inquiry about the purpose, origin and credibility of the memogate. The petition ... "has been accepted for regular hearing by the Supreme Court but a date for hearing is yet to be announced."¹²In the petition filed by the president of PMLN the accused were ... "US Hussain Haggani and Pakistani-American businessman MansoorIjaz, the petition also names as respondents President Asif Ali Zardari, Army chief Gen AshfaqParvezKayani, Inter-Services Intelligence Agency chief Lt Gen Ahmad Shuja Pasha and Foreign Secretary Salman Bashir". 13 The petition was filed on 19 April and demanded the arrest of the former ambassador through Interpol. HussainHaqqani had previously refused to come to Pakistan. The commission made by the Supreme Court released its report and findings after a detailed testimony of all the parties including the conversation of MansoorIjaz with HussainHaqqani on BlackBerry on 12 June 2012. The report declared that it was 'incontrovertibly established' that the memo was written to the US authorities. The Supreme Court ordered for HussainHaqqani to be called back and face the charges of treason. The memo gate scandal and as MPLN leadership went against the federal government in the Supreme Court was taken as an extreme negative gesture by the federal ruling party PPP. Many of the PPP leaders described it as a point of breaking the Charter of Democracy (COD). It may also be described that the undemocratic forces, the

military establishment also played its role in enlarging the gulf between the two main political parties of the country. This move on the part of PMLN also affected the centre province relationship.

Raymond Allen Davis Case

The incident of Raymond Davis on 27th January 2011 shacked not only the relations of Pakistan and the United States but also it left a strong impact on the centre province relations, the relations of the federal government and the government of the Punjab. Raymond Davis was contractor of CIA and a retired US army soldier, he was also an employee of a private security firm. On the given date of January 2011, Raymond Davis killed two people in the city of Lahore, Punjab. Another 3rd one was killed on the way when a car to aid Davis came and the man was hit when that car carrying Davis was running on the wrong side of the road. The US government was of the view that Davis on the diplomatic immunity as he was employee of the US consulate office in Lahore. Davis was arrested with criminal charges of killing three people and keeping in possession illegal weapons. The stance of USA was that Davis was an 'administrative and technical official' and demanded diplomatic immunity under the "Vienna convention of diplomatic relation". The incident was followed by the widespread protest in the country and demanded strong action against Davis. The federal government was lenient and wished to facilitate the US authorities while the Punjab was reluctant over this compromise of freeing Davis. The resistance of the government of the Punjab over the issue of Davis strained the relations of the centre and the Punjab. On 16th of March 2011 Davis was released, and an amount of 2.4 million dollars was paid to the families of the victims as *diyya*, the blood money.

After the incident, around a month later, it was officially announced by the US authorities that Raymond Davis was a CIA contractor. "The American who fatally shot two men in Pakistan last month and who has been described publicly as a diplomat is a security contractor for the CIA who was part of a secret agency team operating out of a safe house in Lahore, U.S. officials said." Similarly the Telegraph wrote that he was the CIA station head in Pakistan. "A US intelligence agent arrested after shooting dead two men was the acting head of the CIA in Pakistan and had been gathering intelligence for drone attacks, according to intelligence sources." One may draw conclusion that Raymond Davis case that the federal government and the government of the Punjab was on different lines, and the incident turned into an irritation between the both.

Abbotabad Operation

Osama Bin Laden is considered the founder of the extremist Islamic group known as Al-Qaeda. He got worldwide fame in the line of extremism after the incident of 9/11. As the allied forces led by the United States were approaching him over the years in the war against terror. He was killed by a US navy seals in Pakistan, Abbotabad on May 2, 2011. This operation was appreciated by most of the world countries including the 90 percent of the US common people appreciated the act of the US navy seals. In Pakistan the situation was different. There were

strong reservations of different political parties and other different circles inside Pakistan. The TTP (*tehreek e Taliban Pakistan*) and other militant groups announced of taking revenge, especially against the state of Pakistan. It is generally believed that two third of the Pakistani population was concerned about the legality of the operation and a foreign army operation on the Pakistani soil.

Joint session of the parliament of Pakistan was called for the debate over this US led operation. Later, there was a debate and strong pressure of the opposition on government to investigate and answer that how Osama Bin Laden was found in Abbotabad and how this foreign operation took place. The opposition party PMLN and opposition leader Chaudhary Nisar Ali Khan was very active, they were making speeches for strong protest. PMLN leaders announced their plan of strong and decisive protest campaign incase investigations were not made. The opposition was given warnings to the government and finally ... "Rehman Malik, the interior minister, for cooling down the political temperature, announced that the government is going to setup a commission for the comprehensive investigation of the operation." It was certainly a daring operation by the US navy seals to kill Osama Bin Ladin and PMLN and opposition parties were talking about being insecure in the own country. The leaders of PMLN were of the view that the entire world is criticizing the position and security of Pakistan's nuclear weapons. The mysterious silence initially followed by that incident by the government was badly criticized by all the political and leading circles of the country.

Swiss Account Cases

Mr. Asif Ali Zardari was elected President of Pakistan later in 2008. Asif Ali Zardari, the husband of the late, former Prime Minister of Pakistan Benazir Bhutto remained in jail for several years after the dismissal of the 2nd term of government of Benezir Bhutto in 1996. He remained in jail from 1997 to 2004 but was never convicted. A case was initiated in Switzerland in 1998 about money laundering and getting kick backs from various government projects, which accused both Benezir and Asif Ali Zardari. In 2001, both husband and wife were found guilty in the case. "They were fined and were ordered to return 2 million of dollars to the government of Pakistan." The decision of 1999 against Asif Ali Zardari and Benezir Bhutto and the amount of fine was suspended by the Supreme Court of Pakistan in 2001. "Though the couple always denied the charges against them during all that period." 18

In 2009, as the Chief Justice Iftikhar Choudhary was restored, he ordered the reopen the Swiss accounts case. The Switzerland prosecutor general, Daniel Zappelli told Pakistani authorities that "the Head of the state cannot be prosecuted as he enjoy the immunity and if Pakistani government wish to lift this immunity they must write for it." The Supreme Court ordered the Prime Minister to write a letter to Swiss authorities for the reopening of the case against the President. The PM Yousaf Raza Gillani refused to correspond with the Swiss authorities over this

money laundering case. As a result a case of the contempt of the court was initiated in the Supreme Court.

Eventually the Prime Minister Yousaf Raza Gillani was suspended and dismissed by the Supreme Court of Pakistan for not obeying the orders of the court. He was convicted for only 30 seconds of imprisonment but was later disqualified as being member of the parliament by the court as a result of conviction. The Supreme Court order was:

"Yousaf Raza Gillani is disqualified from membership of the parliament from April 26, the date of his conviction. He has also ceased to be the Prime Minister of Pakistan." ²⁰

Missing Persons Issue

After 9/11 in the war against terror, Pakistan was facing very serious and challenging crises in the internal matters of the state. The country was badly hit herself in a wave of terrorism in response to its support to the US and the allied forces war in Afghanistan. TTP, *Tehreek e Taliban Pakistan* was founded in 2004, and TTP started a an armed war (followed by all kind of terrorist activities) against the state of Pakistan. The state of Pakistan was badly indulged to fight these militant extremists who were challenging the very existence of Pakistan. During these operations against extremists, many people became missing. Many of the cases on illegal detention come to the Supreme Court.

There were protests against the government for the missing persons and international media was giving them coverage. There were group of protesters who marched several times towards the parliament against the "lost souls' and carrying banners of 'end enforced disappearances." People began disappearing in Pakistan by 2001 in the so called war against terror. The Amnesty International also showed grave concerns on the security agencies of Pakistan, especially "the most important agency, the ISI, who often picked many people on small evidence and were given to the US for bounty." ²²

In February 2012, all parties conference was called by the government over the issues related to Balochistan. The president of Pakistan Muuslim league N, Mian Nawaz Sharif loudly spoke about the issue of the missing persons. He said: "He will not attend the APC until missing persons would not recovered and arrest the killer of Nawab Akbar Bughti."

The opposition party PMLN also took a strong stand on the missing persons issue and a solution was also passed in the National Assembly, moved by PMLN. Zahid Hamid, a member of opposition in the National Assembly moved that resolution and suggested that the parliamentary committee should be formed for the observation that the intelligence agencies must work in accordance with the framework of law. The resolution further said that "the formed committee should meet the victim families and precede work for the recovery of the missing persons."

On the other hand the public posture between the centre and the province of the Punjab was aggressive and Chief Minister of the Punjab had showed

defiance at times in terms of the due protocol to the representatives of the federal government including the president, the Prime Minister and the Governor as well. The posture in the public gatherings and speeches of the Chief Minister were also followed by the aggressive words, particularly against the President Zardari. Punjab remained complainant against the federation over the issue of electricity and showed strong public resentment against the federal government. Shahbaz Sharif was of the view that the federal government is showing a discriminatory attitude against the Punjab in terms of the power sector. That the electricity through the national grid have been discriminatory with the Punjab and Punjab is been the most effected unit in the federation. The Punjab government also took a case in the Supreme Court of Pakistan against the federal government about the hurdles being created in the power projects initiated by the province of the Punjab (details given in the chapter). One can also find official meetings between the Prime minister and the Chief Minister of the Punjab about the governmental issues, coordination of the smooth working of the federation.

The judicial activism in the period under discussion remained a hot issue between the federation and the province (Punjab). Some of the cases went deep in intense relations in the centre and the province. The Suo Moto actions taken by the CJP were mostly against the federal government of Pakistan. The federal government was severely affected by cases and the Suo Moto actions of the Supreme Court. Some of the government treaties and foreign investments were also affected as a result. The posture of the federal government in front the nation was gone down. Some of the cases created the high level of bitterness between the federation and the province of the Punjab. The Raymond Davis case, the Memogate Scandal, then later a case in the Supreme Court and the Punjab government case of the energy projects became not only famous but strained the centre province relationship.

Conclusion

Federal structure in Pakistan has never been in the best shape and during this period same ups and downs between federation and provinces can be observed. Right from the beginning of the governments, as discussed above there emerged numerous irritants such as disagreement of centre-province about the mode, method and timing of restoration of Judiciary, to eliminate corruption in the country, to cope with the energy crisis and to address extremism, Memogate, Raymond Davis, Abbotabad Operation and Swiss Account cases and dismissal of the Prime Minister of Pakistan. These disputes caused estrangement between Federation and the Punjab. Sometimes, it appeared that federal system was not working properly but the condition improved soon after and the relations between the centre and province returned to normalcy. The study has observed that despite above-mentioned irritants and diversified opinion and approaches between the centre-Punjab, better understanding and harmony was displayed while addressing the national issues such as 18th Constitutional Amendment and National Finance Commission Award. It is commendable development because for the first time in

the history of Pakistan constructive legislative efforts were made for smooth working of federal system in Pakistanand federation showed constraintsin its undue interference into provincial matters and thus federating units, including the province of the Punjab, exercised autonomy as envisioned in the 18th Amendment.

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