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#### RESEARCH PAPER

## Semi-Presidentialism and State-Centricism in Pakistan: A Case Study of Authoritarian Federalism during Pervez Musharraf Regime

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This study focuses upon the trends of center-province relations during 2002-08 by examining politics of centralization and patronage. As this era was ruled under an umbrella of authoritarian regime where president of Pakistan was also the chief of army staff himself; this is universal trend in entire world that when military took over the politics, it tries to adopt constitutional engineering regarding legitimize its rule. Same was the situation during 2002-08. This study investigates how this regime ensured political development by applying semipresidentialism, state-centricism and authoritarian federalism.Constitutional engineering during the Pervez Musharraf regime was actually the exhibition of semipresidentialism, state-centricism under authoritarian federalism. Corresponding However, along with having criticism regarding worse Centreprovinces relations, there is also a list of admires from several political scientists. The study is based on the analytical version and primary and secondary sources are the part of the research

#### Introduction

Since its introduction in 1979, As Pakistan is the federal state under the Constitution of 1973, constitutional engineering during Pervez Musharraf regime reshaped federal infrastructure in Pakistan. As this regime was under authoritarian umbrella, Pervez Musharraf (as an army chief of Pakistan) focused upon increasing his powers as a president of Pakistan too. When he took over the government, he firstly announced his "Seven Points Agenda", and then, he introduced legal framework order regarding strengthening his rule under semipresidentialism, state-centricism and authoritarian federalism. Furthermore, by 17<sup>th</sup> amendment in the Constitution of 1973, public representatives of that time also supported his semi-presidentialism, state-centricism under an authoritarian federal structure. Although, impacts of respective amendment and regime are still existed in the political culture of Pakistan but 18<sup>th</sup> amendment in the Constitution of 1973 has almost reversed majority of provisions implemented by the 17<sup>th</sup> amendment.

#### Authoritarian Federalism

Although "authoritarianism" has a characteristic of stringent central power including inadequate administrative liberty but the term "authoritarianism federalism" is used for referring centralized decision-making process for delivering socio-economic and political rights to each segment of society. However, provision and utilization of respective rights has to be strictly observed by the authoritarian political structure (Baofu, 2009, PP.17-19).

As Seymour Martin Lipset believes that some authoritarian regimes generate development through respective decision-making process, various scholars quote Pervez Musharraf regime as a practical implication of Seymour's perspective (Halperin, 2005, P.65). therefore, before analyzing semi-presidentialism and state-centricism under authoritarian federalism during this regime, firstly, study coerces to examine center-provinces relations in Pakistan at the time constitutional designing (1973).

#### Center-Province Relations Defined in 1973

After disintegration of East Pakistan, there was a need of accommodating ethno-national segments in remaining Pakistan (called "West Pakistan" at that time). Therefore, the basic myth of constitutional designing was establishing equilibrium among center and provinces. This constitution was approved by National Assembly of Pakistan on April 10, 1073 while, President of Pakistan signed it on April 12, 1973 (Ganguly, 1997, P.110). Center-province relations according to this constitution at that time were as follows;

- Pakistan is a federal state. Its geographical entities are the provinces of Punjab, Sindh, Northwest Frontier Province (now Khyber Pakhtunkhwa) and Balochistan, capital area of Islamabad, federal administrative tribal areas, and, all the states and regions which are or will be affiliated with Pakistan
- There are two sorts of legislative lists; federal legislative list and provincial legislative list. Federal legislative list is further divided into two lists. First list is related to those departments which are assigned to the federal government like Defense, Foreign Affairs, Currency, international trade, transport, banking system and right of nationality. Similarly, provincial legislative list is related to remaining departments while concurrent list provides right of legislation to the both; the provincial assemblies and the national assembly. But, if, national

- assembly will pass any law related to concurrent list department, law enforced by any provincial assembly will consider to be suspended
- Parliament is bi-cameral where allocation of seats in national assembly consists upon population ratio in each province while senate will represent equal representation of each province
- Provincial autonomy is ensured. Province are authorized to legislate all the affairs which are described in provincial legislative list or not described in any list like agriculture, industries, education etc. Similarly, provinces have authority to legislate about the departments discussed in concurrent list also
- Provinces have appropriate share in national income including subsidies. In case of generating electricity or producing gas, related provinces have appropriate share in the acquiring income through these resources. Similarly, Northwest Frontier Province and Balochistan have extra share due to economic backwardness
- Supreme Court is authorized to solve center-provinces or province-province conflicts
- Religious minorities have share in national assembly and provincial assemblies as per the ratio of their population (Ali, 2013, P.21).
- In case of altering geographical boundary of any province or establishing new province, any measure will not be taken before approval of related provincial assembly with two third majority (Rizvi, 2005, P.38).

#### Federation of Pakistan; In between 8th Amendment and the 13th Amendment

It is long story about 8th amendment in the Constitution of 1973 regarding increasing powers of president at federal level and governors at provincial levels. In fact, this was another authoritarian regime under General Zia-ul-Haq (1924-88) since 1977 to 1988 (Qayyum, 1997, P.67) (Revanasiddappa, 1990, P.90). In fact, 8th Amendment is very noteworthy document integrated in the politics of Pakistan that changed the nature of constitution. On July 05, 1977, Zulfagar Ali Bhutto government was taken over by the authoritarian regime that imposed Martial Law. This regime prolonged till the amalgamation of 8th amendment in the constitution of 1973. Basic aim of this amendment was to authorize and empower President regarding dismissing Prime minister and to dissolve National and Provincial Assemblies at his will. The significant part is of this amendment is that the governors enjoy same powers in the provinces as president has in the center. With this amendment, the chair of President attained the power to appoint provincial governors and services chiefs with minimal role of Prime Minister in these processes. On the other hand, on an issue of Prime Minister's election, President can nominate any elected member of National Assembly to contest as a Prime Minister if he/she claims to have majority in the House. This process was a pure withdrawal from pure parliamentary norms and traditions to Quasi-Presidential system (Chitkara, 1998, P.146). This concentration of powers in center and in the hands of President seriously affected and violated the federal character of the constitution of 1973. After end of the Zia regime, both tenures of Benazir Bhutto (1989-1991 and 1993-1996) and one tenure of Nawaz Shareef were suffered from this semi-presidential constitution while, center-province relations during this decade were also disturbed even by different political leadership in center and provinces in distinct regimes. Therefore, second tenure of Nawaz Shareef took serious step in this regard, and, 8th amendment was reversed in the 13th Amendment that restored original parliamentary federal polity in Pakistan. This amendment was made in the second tenure of Prime Minister Mian Muhammad Nawaz Shareef in 1997. According to this amendment, Prime Minister retook the powers of president and now, president was bound to act just on the advice and instruction of the Prime Minister as compulsory in nature parliamentary federal polity. Now, again powers were put up under the pressure of political executives instead of president as during Bhutto regime. This regime was again gotten downfall by the authoritarian regime. General Pervez Musharraf took control over the government in October 12, 1999 (Mahmood, 2001, P.06).

This coup manifested as new regime in the federal history of Pakistan but, according to different political scientists and scholars, all this was happened just because of Nawaz Shareef's autocratic behavior during his second tenure, and, his some monstrous turns against federalism in Pakistan (Worth, 2007, P.07) (Harmon, 2008, P.02). Although, an absolutely free judiciary is essential element for federalism but prime minister managed resignation of an interfering chief justice of Supreme Court with the support of his colleagues. He also forced president; the head of state regarding leaving office with the collaboration of army chief, and the, appointed new president who was his family lawyer. As federalism and democracy are acknowledged as twin mediums, opposition parties can play effective part in the political system regarding functioning smoothly. Nawaz Shareef wracked Benazir Bhutto; the opposition leader of that time with the allegations of corruption, and forced her to exile. In the last, he rotated himself towards General Jahangir Karamat; the army chief at that time, and left no decision for him but to resign. He, then appointed General Pervez Musharraf as the chief of army staff by super-ceding two senior officers in the military. Similarly, civil institutions that are considered to be very essential for administrating country were spoiled by Nawaz Shareef also. At the same time, field of journalism and press remained under political fire during his era, and, he tried to enact religious laws in the country on the name of "Shariat Bill", controlled institutions like Zulfaqar Ali Bhutto, and, thought about himself as unchallengeable. During his effort regarding dismissing his own appointed army chief; General Pervez Musharraf in his absence (for official tour to Sri Lanka) from the country, he himself vanished his respected office of prime minister, and, was locked up in the jail. Later, he went to exile towards Saudi Arabia through making an agreement among Saudi Government and the military. On this situation, Former law minister during last regime of Benazir Bhutto commented about Nawaz Shareef that "he had the habit of soothing himself in foot. This time, he shot himself in the mouth" (Worth, 2007, PP.08-10) (Harmon, 2008, PP.02-04).

#### Pervez Musharraf Regime

General Pervez Musharraf on October 13, 1999, during his very first address to the nation announced his aim to strengthen federalism. He argued that his particular vision is just related to the wellbeing of the citizens and of selfsustaining policies regarding socio-political and economic development of Pakistan. Similarly, the particular concern of my designed cabinet will be only to make strengthen role of federal government, and, to avoid institutional destabilization in the state. The difference in his coup with the previous three authoritarian regimes was that; he did not disseminated martial law in the country but to imposed emergency on October 14, 1999 with adopting the title of "chief executive" (Baxter, 2004, P.55). He referred some provisions for emergency presented in the Constitution of 1973 that declare that president can impose emergency in the federation as a whole or in any part but in critical situations. General Pervez Musharraf used the term "emergency" as only like a substitute to martial law regarding making it acceptable for the nation. Initially, he suspended constitution of 1973 including National Assembly, all the four provincial assemblies and the Senate instead of president; head of the state. Unlike General Zia-ul-Haq, he did not offer any kind of promise or hind to the nation regarding holding fresh general elections within ninety days. He addressed the nation second time on the television on October 17, 1999, and described his "Seven Points Agenda" for which he showed his intention to achieve (Baxter, 2004, P.55). According to his this agenda, he wanted to achieve these targets as;

- Restructure the nation's self-confidence and raise of the morale of people.
- Eliminating the inequality among provinces regarding achieving the determination of integration, and, between the nation's solidification of federation.
- Transformation of investor's poise regarding boasting socio-economic conditions of the country.
- Preserve law and order situation in the state and providing justice.
- Exclusion of political orientations from the state's major institutions.
- Real decentralization of political powers at the grassroots.
- Rapid process of ensuring accountability regarding producing a totally corruption-free culture in the state (Musharraf, 2008, P.60).

He was very clear about his agenda that his major targets are actually the consolidation of federation, and real decentralization of political that are the necessary for any federated state (Baxter, 2004, P.56). Later, he announced legal framework order regarding implementing his agenda in an appropriate way.

#### Legal Framework Order

Legal framework order was announced to organize general elections in 2002 and the revival of the Constitution of 1973. It presented several amendments in the Constitution that according to the Supreme Court of Pakistan, must be

ratified by Parliament. Even, general elections 2002 delivers two third majority to the supporters of General Pervez Musharraf but it was decided that this LFO must be approved by the Parliament with the consent of opposition also. For this purpose, government announced two different drafts (called packages) regarding constitutional amendments (Griffiths, 2005, P.252) (Oberst, 2013, P.09) (John, 2005, P.107). First package was announced on June 26, 2002 while, second package was announced on July 14, 2002. These packages redesigned not only center-provinces relations but also imposed centralization of powers in the chair of president once again. So, before discussing final 17th amendment in the Constitution of 1973, firstly, we have to discuss first, second and final draft under these packages as follows;

#### First Package of Constitutional Amendments

There were certain recommendations presented by government in first package of constitutional amendments about determining center-province relations and centralization of power (Griffiths, 2005, P.253) (Oberst, 2013, P.10) (John, 2005, P.108). These were;

National Security Council (NSC) will be established regarding comprehensive and effective system of accountability. It will consisted upon President, Prime Minister, all the four provincial chief ministers, Chairman joint chief of staff committee and all the three chiefs of armed forces (Griffiths, 2005, P.254) (Oberst, 2013, P.11) (John, 2005, P.108). It will be constitutional institution that will not only have an authority to analyze the internal and internal security situation but also;

- It will has an authority to dismiss federal or any provincial cabinet,
- It will allow to dismiss national and any of provincial assembly, and,
- It will be authorized to impose emergency in any region, province or entire country

This package recommended some discretionary powers to the president such as;

- Dismissal of prime minister and its cabinet,
- Send back any advice for review given by prime minister or its cabinet,
- Dismissal of National Assembly,
- Appointment of provincial governors,
- Deliver an authority to governors regarding dismissal of chief ministers,
- Deliver an authority to dismiss provincial assembly, and,
- Having an authority to appoint heads of the institutions, established under the light of constitution (Griffiths, 2005, P.255) (Oberst, 2013, P.12) (John, 2005, P.109).

With amending article 91(5) of the Constitution of 1973, president will be authorized to dismiss Prime Minister and its cabinet if;

- Prime Minister and its cabinet will use misuse of their powers,
- Ignoring national interests,
- Signing any agreement against national interests, and,
- Violating constitution any time (Griffiths, 2005, P.255) (Oberst, 2013, P.12) (John, 2005, P.109).

In case of dismissal prime minister, he will never become prime minister during current tenure of national assembly. President will then, nominate any of the member of national assembly regarding getting vote of confidence from the respective house within sixty days, and, will take an oath as a prime minister (Griffiths, 2005, P.255) (Oberst, 2013, P.12) (John, 2005, P.109).

#### Second Package of Constitutional Amendments

After serious debates over first package of constitutional amendments by legal experts and political leaders including leaders of opposition parties, government announced second package (Griffiths, 2005, P.257) (Oberst, 2013, P.14) (John, 2005, P.111). The draft of second package was also consisted upon certain characteristics regarding center-province relations and centralization of powers that are described below;

- Supreme Judicial Council will be consisted upon seven instead of five members, in which, there will be chief justice of Pakistan, two senior judges of Supreme Court and all the four chief justices of provincial high courts
- The procedure of constitutional amendment will design as more complex in future
- There will be permanent secretariat of Council of National Interests, and, its session will be called after every three months
- National Economic Council will be chaired by Prime Minister while, it will
  consisted upon all the four chief ministers, federal minister of finance and
  deputy chairman of planning commission
- Newly designed and implemented devolution plan will be constitutionalized

#### **Final Package of Constitutional Amendments**

After long public debates and concentrations on both packages, government finally announced a full constitutional package which was announced by President General Pervez Musharraf in a press conference on August 21, 2002. Due to huge criticism, government withdrew several proposed amendments, in which, some related to center-province relations and centralization of powers were like;

- Authority of president and provincial governors regarding nomination of prime minister and chief ministers respectively
- Authority of president and provincial governors regarding dismissal of prime minister, chief ministers and their cabinets respectively
- Authority of refusing advice of prime minister or chief ministers regarding dismissal of national or provincial assemblies respectively
- Absolute authority of president regarding appointing provincial governors without consultation of prime minister
- Reduction in tenures of national assembly and provincial assemblies from five to four years (Griffiths, 2005, P.260)

Next elections of 2002 were held according to this Legal Framework Order without its approval from any legislation. However, Musharraf government tried to legitimize these elections by reshaping them as the product of National Accountability Bureau (NAB) (Griffiths, 2005, P.262) (Oberst, 2013, P.19) (John, 2005, P.116).

#### 17th amendment in the Constitution of 1973

As authoritarian government of Pervez Musharraf conducted general elections of 2002 under Legal Framework Order (briefly defined in final package of constitutional amendments), National Assembly, Senate and all the four provincial assemblies were came into being. Firstly, President General Pervez Musharraf announced this final package of constitutional amendments (LFO) as a part of the Constitution of 1973 without approval of National Assembly, and, declared that "now there is no need of its approval from parliament". On this announcement, political parties rejected his stand and forced him to adopt constitutional method regarding this amendment. PML (Q) government accepted this demand and started negotiations with opposition parties. On December 24, 2002, government and opposition party MMA (MutahidaMajlis-e-Amal) signed an agreement about proposed 17th amendment. Just five days after this agreement, national assembly approved this amendment with two third majority on December 29, 2002 (John W., 2009, P.210) (Awais, 2008, P.49). Basic points of this amendment were;

#### **Eliminating Constitutional Protection of National Security Council**

National Security Council was established under Legal Framework Order, and, constitutional security was given to it. Now, this amendment eliminated its constitutional protection and decided that, it will work as per the legislation of Parliament (John W., 2009, P.210) (Awais, 2008, P.49).

#### Remove Tenure Increment for Judges

Decision about three years extension in the job tenure of Supreme Court and high courts judges was taken back. Age of Supreme Court judge and high

courts judges was defines as 65 and 62 respectively. Soon after this amendment, several judges got retirement who were enjoying extension (John W. , 2009, P.211) (Awais, 2008, P.50).

#### General Pervez Musharraf as an Army Chief and President

General Pervez Musharraf will remain chief of army staff till the December 31, 2004. Article 63(1) will be implemented after December 31, 2004, and, Pervez Musharraf will leave his army job; perform his duties as civilian president (John W. , 2009, P.211) (Awais, 2008, P.50).

### Appointment of Air, Navel and Army chiefs

According to this amendment, president will appoint air, navel and army chiefs after the consultation with prime minister. Article 243 of the constitution of 1973 was amended in this regard. The words "in his discretion" was replaced by the words "in consultation with the prime minister" (John W., 2009, P.211) (Awais, 2008, P.50).

#### **Vote of Confidence**

Although, results of presidential referendum were accepted by opposition but it was decided that General Pervez Musharraf will take vote of confidence from its electoral college. As Electoral College of president was consisted upon National Assembly, Senate, and all the four provincial assemblies, General Pervez Musharraf got vote of confidence with full majority and elected as the president for five more years (John W., 2009, P.211) (Awais, 2008, P.50).

#### Restoration of Article 58(2)(B)

Article 58(2)(B) was included in 17<sup>th</sup> amendment as it was included in LFO. Now, president once again had an authority of dismissing National Assembly or removing prime minister. Similarly, he/she along with governor can remove chief minister of any province from his post. The modification in this amendment was; president or governor will send a reference to Supreme Court within fifteen days after using this authority about dismissing national or any provincial assembly respectively. Supreme Court will take decision within thirty days. Its decision will be final and obligatory for all. (John W., 2009, P. 212; Awais, 2008, P. 51).

Under the article 270(A)(A), several other ordinances issued by president were validated through this amendment also. Some of them were as follows;

- Imposing emergency in October 14, 1999,
- Provisional Constitutional Order No.01, 1999,
- All the ordinances issued by the president, orders issued by chief executive, notifications and announcements from both offices,

- Order about taking new oath of the judges in 2000,
- Legal Framework Order 2002,
- All the decisions and appointments since October 12, 1999 (John W., 2009, P.213) (Awais, 2008, P.52).

Similarly, local governments that were established under the devolution plan, were protected by this amendment for next six years (John W. , 2009, P.214) (Awais, 2008, P.54).

#### Conclusion

Constitutional engineering under Musharraf regime was actually the exhibition of semi-presidentialism and strict stat-centricism under authoritarian federal structure. However, regime also generated lot of machinations when it increased constituencies for national and provincial assemblies and the senate. Similarly, establishment of PEMRA (Pakistan Electronic Media Regulatory Authority) under presidential order opened private television and radio channels in Pakistan that provided freedom of expression (PEMRA Ordinance 2002, 2002). Radio and television channels in each language and on each ideology were launched without any restriction on any community, sect, newsgroup or political party. Women Protection Bill that was the revision of disputed Hudood Ordinance of General Zia-ul-Haq was empowering women in entire country. Similarly, school and higher education policies under his regime were admired by United Nations also as declared it "the revolution in higher education". Pre-Bugti Balochistan had just 21 percent literacy rate according to the UNESCO Report on Balochistan 2006 but, soon after one year of his assassination, literacy rate of district DeraBugti got high up to 49 percent (Cummings, 2008, P.179). This was just because of his equal policies for all the units of federation. Similarly, emergence of national level political parties during his regime like PML (Q) and MMA forced other political parties to leave their regional or ethnic sphere of influence and participate in federal polity. MQM, ANP, PML (N) and PPP left their conservative orientations about Karachi and Hyderabad, NWFP, Punjab and Sindh respectively (Khan, 2009, PP.310-312). Although, criticism about snatching provincial autonomy was justified as decision of dismissal of national or any provincial assembly or prime minister or any chief minister will be referred to the Supreme Court, and, Supreme Court is an independent organ of the state as before. It will take decision according to the constitution after hearing all the allegations put by the president or any relevant governor. Therefore, along with having criticism regarding worse centerprovinces relations and damaging federal polity, there is also a list of admires from several political scientists and scholars about this regime in favor of beautifying pure center-province relations and federal polity.

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