



Making of New Province in Punjab – Constitutional and Legal Challenges and Opportunities

Azra Qadir, In-Charge, Department of Law (HUSS) at Khwaja Fareed University of Engineering & Information Technology (KFUEIT), Rahim Yar Khan 64200, Pakistan, xyz3747@gmail.com

Abstract: Rationale behind creation of Pakistan was that the Muslims should be able to live their lives according to their religion Islam. The country was created with the partition of Sub-continent in the year 1947 by the British Ruler through Indian Independence Act 1947. Pakistan inherited federalism from the British colonial rule. However its true spirit was lost due to contradiction of interests. This circle of mistrust and lack of co-ordination resulted to create political instability in the country and differences between the centre and provinces. The demand to have new provinces is not a new demand. This demand has been raised from time to time on the basis of ethnic grounds, socio-economic backwardness of the relevant areas. The demand of a Bahawalpur, Saraiki province, Hazara province and division of Sindh into two parts on the basis of ethnicity are facing by the centre. Though both opponents and proponents of the demand have valid arguments in their favor and support. The creation of new provinces is a complex issue. New provinces can only be created through the constitutional means and the national consensus.

The constitution (Amendment Bill) 2019 seeks amendments of Articles 1, 51, 59, 106, 175A, 198, 218 and 239(4). The detail of the articles is as:

Article 1: The Republic and its Territories.

Article 51: National Assembly: Seats of Provinces.

Article 59: The Senate: Equal seats of Provinces.

Article 106: Constitution of the Provincial Assemblies.

Article 175A: Appointment of Judges to the Supreme Court, High Court and Federal Shariat Court.

Article 198: Seat of the High Court.

Article 218: Election Commission.

Article 239(4): Constitution Amendment Bill.

The bill mainly determines the allocation of seats for the assembly of the proposed Bahawalpur-Janoobi Punjab province and setting up of high court there and its own assembly. New provinces are need of the time, not a political slogan, solution of the problems.

Keywords: New Province, Constitutional amendments, Bahawalpur Janoobi Punjab, Demarcation of Boundaries, Assembly seats, High court.

I. INTRODUCTION:

The constitution defines Pakistan as a federal state. A state where the powers are shared between the federal-central Government and the units of the federation. Pakistan inherited the federal system from the British India and has been practicing it throughout the constitutional history. However the true spirit of the federalism could not achieved. Mistrust and lack of co-operation between the center and the provinces over the distribution of resources and funds. This situation creates tension between the central and the provincial governments. Different political parties and civil military governments given it and due to poor policies a lot of issues and problems emerged in form of language, resources, allocation, low development in backward areas, less representations in the governments and powers, ethnicity and identity politics. Backwardness and ignoring the priorities and using of funds in other areas gave the pace to movements for new provinces. The current debate to create new provinces was sparked by government decision to rename the North Western Frontier Province (NWFP) Khayber Pakhtunkhwa (KPK). This name has an ethnic connotation that the Non-pashtun population of the province opposed and wants a Hazara province of their own. The demand seems to have caught on and now major political parties, the media and the social activists expose or oppose it.

The National Assembly passed a resolution in favor of a new province in South Punjab and also asked the Punjab Assembly to take necessary actions and measures in this regard. The Punjab Assembly on its parts

added to its own resolution to grant provincial status to the former princely state of Bahawalpur. Both the Pakistan Peoples Party (PPP) and Pakistan Muslim League (PMLN) have agreed to establish a national commission to demarcate the boundaries of the proposed province.

The demands to have new provinces have been raised from time to time. Sometimes on ethnic grounds, sometimes on the basis of language, sometimes on the basis of distribution of resources and socio-economic backwardness of the areas.

Pakistan is a federal state with a diverse ethno, lingual and religious outlook. Federalism in Pakistan is not suitable for the integrity of the state. Unfortunately the true spirit of federalism has not been followed and achieved. Federalism requires strong federating units with weak central government occupying the role of regulator taking care of the major sectors like foreign affairs, defense, currency, wapda, sui gas and railway. The small provinces have been complaining about the dominating role and control of the center by the big provinces like Punjab and Sindh.

The case for South Punjab has been presented on socio-economic grounds. It is commendable that the proposal of the new province has been named as South Punjab and not as Saraiki province as demanded. The rationale for the decision of the saraiki speaking population which is scattered over the 23 districts, starting from Mianwali, Bhakkar, Dera Ghazi Khan, Multan and Bahawalpur in Punjab to Dera Ismail Khan and some parts of Lakki Marwat in KPK. This Saraiki province would have become another big province like Punjab and unmanageable administration create economic issues.

Whether the proposed administrative set up to new province to solve the problems and hardship of the people of South Punjab is a question that needs knowledge about the socio-economic conditions of the region.

II. LITERATURE REVIEW:

According to Dr. Umbreen Javid, (2018) On April 30, 1951, Bahawalpur, the largest of the state joined Pakistan was given the status of province by an agreement signed between Government of Pakistan and the ruler of Bahawalpur under the Government of India Act 1935 regarding legislative and administrative matters. Under the agreement Nawab of Bahawalpur agreed that central subjects (defense, communication and foreign affairs) listed in list one were to be administered by center while the provincial matters would continue in the hands of Bahawalpur province. Hence the state was to be treated as a province but at the same time it was made clear that this pattern would not apply to other states that joined Pakistan. After the recognition of the state as a province, elections were held in Bahawalpur province in the next year. A legislative assembly of 49 members was formed presided by Makhdoom Zada Syed Hassan Mehmood, who became the first elected chief minister of Bahawalpur province.

M. Mahmood described in The Constitution of Pakistan 1973, In the year 1954-55 approval of surplus budget by the Bahawalpur province which still remains the only surplus budget presented in any legislative assembly of the federal or provincial government. Unfortunately the provincial assembly remained functional from 1952 till October 14, 1955.

Pakistan's constitution 1973 clearly sets and explains a comprehensive procedure for creation of new provinces. Article 239 of Constitution of Pakistan 1973 states a complete constitutional mechanism for the creation of new province. The Article states that "A bill to amend the constitution which would have the effect of altering the limits of a province shall not be presented to the president for assent unless it has been passed by the Provincial Assembly of that province by the votes of not less than two- third of its total membership.

According to Dr. Umbreen Javid, (2018) the importance of the Bahawalpur on the defense point of view, it is on the most important regions. Cotton, pulses, sugarcane, wheat, dates, mangoes and oil seeds are its important crops. Cotton with 23% contribution and wheat with 10% contribution to the total production of the country are the most important crops of the region. It is one of the important regions of Pakistan from the defense point of view, having 300 miles long frontier border with India and desert land of Cholistan. Special technical and defense equipment is required to monitor the area that suits for desert warfare. In the National Assembly of Pakistan 15 MNA and in the Punjab Assembly 31 MPA represent the region.

Dr. Umbreen Javid, (2018) described The Indus water accord between India and Pakistan again a harmful act for the region because the Sutlej River irrigated the agricultural land of the whole region was given to India with negative effects on the economy of Bahawalpur.

Dr. Umbreen Javid, (2018) described that according to the PILDAT discussion papers South Punjab comprises around 48.5% of the total area and 31.57% of the population of the present province of the Punjab. It has three divisions subdivided into eleven districts. The allocation of the funds through Annual Development

Program was 17.76% in 2006 and was increased to 29.02% in 2010. The social indicators in education, health, labor and employment sector also present the poor picture. 43.11% people live below poverty line and level compared to 27.69% of the Punjab.

According to the Report of the Commission, (2013) for the demarcation of provincial boundaries, it is mandatory to get the approval of the Provincial Assembly. In 2012 National Assembly of Pakistan passed a resolution in support of a new province in Punjab and constituted a commission to submit a report on the feasibility and implementation of the plan. The resolution asked Provincial Assembly of Punjab to take necessary actions. The Punjab assembly passed two resolutions on May 09, 2012 proposing the creation of two new provinces The South Punjab and the Restoration of Bahawalpur province.

The constitution (Amendment Bill) 2019 seeks amendments of these articles:

Article 1: The Republic and its territories:

When change in the constitution, new areas of the province added in it.

Article 51: National Assembly: Seats of the province

Now the total seats of National Assembly is 342 including women reserved seats and non Muslims. For creation of new province seats were added with said area.

Article 59: The Senate:

Equal seats of provinces in the Constitution of Pakistan. For creation of new province seats were also added in senate.

Article 106: Constitution of the Provincial Assemblies:

In this article amendment requires to add new province area, seats and name also.

Article 175A: Appointment of Judges to the Supreme Court, High Court and the Federal Shariat Court:

For creation of the new provinces, it is necessary to set up High Court for the judges province and are appointed for new High court and new province according to law.

Article 198: Seat of the High Court:

According to the constitution of Pakistan, It is necessary that each province has High court, principal seat, benches settled and announced by the law and judges are appointed according to the law and may hold at any place within its jurisdiction and after that with the consultation of the Chief Justice High Court, Governor shall make rules to provide all matters.

Article 218: Election Commission

For the purpose of the elections of the parliament, provincial assemblies, members are appointed according to the law and constitution. Four members are added and appointed for new province.

Article 239(4): Constitution Amendment bill:

It is necessary to create new province. The provincial assembly of the said province pass a bill by 2/3 majority of its total membership.

Dawn.com described that General Election was held in Pakistan July 25, 2018 after the completion of five year's term by the outgoing government. At the national level, elections were held in 272 constituencies, each electing one member to the National Assembly.

As election season comes, once again we are starting to hear the evergreen demand before every election cycle, the creation of new provinces. Both the political parties of Pakistan used it as gain political sympathy and votes. In 2018 election, PTI absorbs Janoobi Punjab Sooba Mahaz after promising new province in South Punjab. The two parties had reached an agreement a day earlier and made their merger official at a press conference in Islamabad. JPSM president Makhdoom Khusro Bakhtiar said that two merger was made possible after the PTI included the formation of new province in South Punjab to their election manifesto. Under the deal, PTI is to set in motion the procedures to create new province in South Punjab within 100 days if it forms the next government.

But after the elections, the people of Janoobi Punjab Sooba Mahaz awarded with ministries and 100 days plan is not complete but now taking steps for Janoobi Punjab Bahawalpur Province. Civil secretariat is set up in Circuit House Bahawalpur. On August 31st 2020, Government of Punjab issued Notification No. SI.2.2020. Ten additional secretaries are appointed as South Punjab Secretariat. For healthcare, finance, general administration, planning and development, agriculture, livestock and dairy development, secretary home department, secretary law department of South Punjab.

It shows the hope to announce the new province to solve the problems of the neglected area people.

Government faces many difficulties and problems on the border area, opposition and other related matters.

Research objectives:

Objectives of the study were;

1. To review the efforts for making new province in Punjab.
2. To analyze the impact of making new province in Punjab.
3. To propose certain opportunities and challenges in making of new province in Punjab.

Research questions:

Research questions of the study were;

1. What is the impact of making new province in Punjab?
2. What are suggestions to ensure in making new province in Punjab?

III. RESEARCH METHODOLOGY:

The study was descriptive in nature. The data was collected from the lawyers, social workers, and politicians of Rahim Yar Khan through questionnaire and interview. Apart from personal information, there was 07 open ended questions. The qualitative technique was adopted. The convenient sampling technique was adopted. Sample of study was consisted of lawyers, social workers, and politicians in District Rahim Yar Khan. The data from selected sample was collected by using various research tools as interview and focused group discussion. The validity of the research tool was ensured by peer review and expert opinion. After validation, some changes in the items of the research instrument were made.

Data analysis:

The collected data was analyzed through coding the themes according to the resolution of the Provincial and National Assembly is as under:

In the National Assembly resolutions was passed and try to accommodate the people of Southern Punjab to create new province and protect the people's interest of the neglected area people.

This house call upon the Provincial Assembly of Punjab to present a bill in Punjab Assembly to amend the constitution in accordance with Article 239(4) of the constitution of Islamic Republic of Pakistan 1973 for passage which would have the effect of altering the limits of province of the Punjab for creating new province. In the Punjab Assembly, resolution was passed unanimously, moved by the law minister and parliamentary affairs to demand the federal government to create the new province named Janoobi Punjab.

To create this province, formulate a national commission to solve all matters of water distribution, geographical demarcation and all legal, constitutional, administrative matters decided at once.

Another resolution in Punjab Assembly was passed for the restoration of ex status of the princely state of Bahawalpur and formulated a national commission to solve all the problems.

The commission comprises of 12 members. In these members, 6 senators and 6 MNA's were included. The legal and constitutional formalities were adopted but it was revealed that there were political delay tactics and intentions of ruling elite and party in favor of new province. The provincial assembly of Punjab refused to accept the commission. This commission however submitted its report to the parliament on January 28th, 2013. According to this report MQM demanded the Hazara, Swat and Khair Pur as states and new provinces. Another demand for the Dera Ghazi Khan as part of Balochistan and Bahawalpur province restoration. The commission after the due deliberations proposed the new province named as Bahawalpur Janoobi Punjab with its capital in Bahawalpur. It was closed to the expression used in resolution adopted in the assemblies' resolutions.

In this research study, interviews of the senior advocates were conducted on the demand of new province. Most of them agreed with the demand of new province to solve the problems of this neglected area and people. Mostly they stated as the income of the area utilized in this particular area.

In interviews of the senior journalists with the study research question, making of new province is necessary now? Most of them agreed and in favor of making new province is the need of time.

On the panel of senior socialists of District Rahim Yar Khan were interviewed on media and phone calls. They expressed their views with these thoughts that new provinces wakes for the progress of the backward area and betterment of the people.

A group of the common people of this constituencies viewed as that politicians of these areas only works for their own interests and for ministries, do not work for the rights of people. New province is the need of time and gives the participation of the all communities in all fields of life.

Due to this research study was farmed to analyze this qualitative and quantitative data. It was concluded that review of the literature showed that people demand of making of new provinces now deal with care, not as slogan of politics and gaining of votes. Now the people are aware of their rights and demands.

Making of new provinces with political autonomy and distribution of resources with the facts and figure.

According to law, amendment will be proposed in the constitutional articles for allocation of seats, for the assembly, High court for Bahawalpur Janoobi Punjab province, senate and demarcation of the new province.

Distance from Bahawalnagar, Multan, Rahim Yar Khan and Dera Ghazi Khan, Bahawalpur is the best choice for the centre of new province. People of all the districts have easy access to reach the Bahawalpur city.

IV. CONCLUSION AND DISCUSSION:

The issue of new province has been taken up by the political parties and Governments as a political stunt and lollypop for strengthening their tenure. It deals as agenda item for political scoring point, but always ignoring the problems of the people. New provinces for the purpose of assuring equal distribution of resources and devolution of power is recommended for political development and strengthening the federation of Pakistan.

The separation of eastern wing of county should be taken as a lesson in this regard where refusal and indifference by the federation towards the complains regarding allocation of economic shares to East Pakistan lead to violence separatist movements causes the falling of Pakistan. The case of Bahawalpur region should be taken seriously by the Government and should attempt to address the feelings of deprivation among the Saraiki speaking people of the region. When I am talking to an advocate Supreme Court on the issue of Janoobi Punjab Bahawalpur Sooba, he said "When I smell Ring road and Metro of Lahore it smells like the dates, mangoes and cotton of Rahim Yar Khan".

This type of thoughts creates insurgency and instability in the country. The issue of formation of new provinces should not be addressed in hurry. A deeply paper work needs about the allocation of shares according to the resources of region and population.

Former Senator Farhat Ullah Babar said that the Pakistan Peoples Party had tabled in the Senate a constitution amendment bill to create South Punjab province along the lines of a bill that was passed by the upper house of Parliament in 2013. The new province will comprise Multan, Bahawalpur and Dera Ghazi Khan Districts and divisions of Mianwali and Bhakkar.

PML-N submits bill seeking creation of Bahawalpur South Punjab province in National Assembly. The bill was submitted to the National Assembly secretary by MNA's Ahsan Iqbal, Rana Tanveer and Rana Sana Ullah. The bill demands that Article 1 of the constitution be amended to create the Bahawalpur and South Punjab province. This article deals with the republic and its territories.

Responding to Mr. Dogger's speech, Federal Minister for Housing and PML-Q MNA Tariq Bashir Cheema declared that the people of Bahawalpur did not want to live with the people of South Punjab. "We do not want to go under Takht-i-Multan after coming out of Takht-i-Lahore", the minister remarked. He said the people of Bahawalpur had rendered great sacrifices and therefore their province should be restored opposing his party's parliamentary.

Foreign Minister Shah Mahmood Qureshi said in media briefing that South Punjab to have its own assembly, high court and briefed the area comprising in new province Multan division, Bahawalpur division and Dera Ghazi Khan Division. The province will have a separate assembly and seats in the Senate. Gateway of the new province is Mian Channu and Board of Revenue, Public Service Commission and special secretaries will be employed for all other departments.

On September 3, 2019 bill for Bahawalpur South Punjab province tabled in Senate by the jointly sponsored by Pakistan Peoples Party PPP lawmaker's Bahramand Tangi, Rubina Khalid, Imamuddin Shouqeen, Sikandr Mandhro, Islamuddin Shaikh, Gianchand, Keshoo Bai, Sherry Rahman and Jamaat-e-Islami's Mushtaq Ahmed.

The bill also demanded an increase seats for Baluchistan in the National Assembly, Provincial Assembly and reserved seats for women.

Now taking steps for Janoobi Punjab Bahawalpur Province. Civil secretariat is set up in Circuit House Bahawalpur. On August 31st 2020, Government of Punjab issued Notification No. Sl.2.2020. Ten additional secretaries are appointed as South Punjab Secretariat. For healthcare, finance, general administration, planning and development, agriculture, livestock and dairy development, secretary home department, secretary law department of South Punjab.

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V. RECOMMENDATIONS:

The second objective and research question of study were framed to propose suggestions to ensure in making of new province in Punjab. The study recommended that:

1. New province is the need of time.
2. Solution of the problems
3. Budget maintain for the new administrative units.
4. Give participations and opportunities to all stake holders and communities in all fields of life.
5. Adopt proper amendment process to establish new province for seats, demarcation of boundaries, assembly and High court.
6. Ultimate objective should be the strengthening of the federation of Pakistan.

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