# Ethnic Diversity, Federal Structure and the Question of Baloch Nationalism in Post-Colonial Pakistan

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A state can respond to diversity within its borders in many different ways, it can seek to eliminate, manage, co-opt, or enrich with this diversity. Pakistan is a highly diverse and plural society in terms of its ethnic, linguistic and religious composition, and in this context, some scholars categorise Pakistan among ethnically and linguistically complex states of the world. Federalism, as a foundation of shared sovereignty, was stipulated as one of the premises for the creation of Pakistan in the Lahore Resolution of 1940, but it has not been promoted to establish the country as a federal state. In reality, the unitarian character of the state largely prevailed to varied degrees under both democratic and military regimes. As a result, Pakistan remained authoritarian and centripetal despite having apparent federal features in its political system. This paper examines the emergence, development, and dynamics of federalist politics in postcolonial Balochistan by understanding the confrontation between two distinct strands of Baloch nationalists: federalists and radicals. By tracing the chequered history and dynamics of centre-province relations the paper discusses stringent and draconian initiatives taken by the Pakistani government to curb the ethno-nationalist movement of the Baloch people. The paper uses historical and analytical methods to demystify the lacunas in Pakistan's centralised and quasi-federal system which promoted regionalism and centrifugal tendencies that eventually shaped the Pakistani state's troublesome relations with Balochistan.

**Keywords**: Federalism, ethnic diversity, Pakistan, Balochistan, nationalism, provincial autonomy.

Pakistan is a highly diverse and plural society in terms of its ethnic, linguistic and religious composition and in this context; some scholars categorise Pakistan among ethnically and linguistically complex states of the world. Pakistan has been a federation since independence, partly as the constitutional legacy of British India and partly as the result of necessity because of the two non-contiguous territorial units that were created in 1947. Federalism, as a foundation of shared sovereignty, was stipulated as one of the premises for the creation of Pakistan in the Lahore Resolution of 1940, but it has not been promoted to establish the country as a federal state. The federal structure of Pakistan has undergone significant transformations since the country adopted its first constitution in 1956. While the formally federal nature of the state has been a constant feature in constitutions promulgated by both civilian and military regimes, centre-province tensions have occurred regularly over issues ranging from provincial representation in key institutions (including the army)

to the equitable distribution of resources among the provinces. Ethnic mobilisation and political instability in Pakistan is the result of discrepancies in the theory and practice of federal arrangements. Though the Pakistani Federation fulfils the minimum criteria of federalism, it operates more as a unitary system (Mushtaq, 2009).

The formation and development of nationalism in Balochistan is older than the establishment of Pakistan. Notwithstanding the initial reluctance, Balochistan has acceded to the federation amicably. Yet, the politics of federalism in Pakistan has not been accommodative vis-à-vis Balochistan, generating a sense of nationalism based on Baloch nationhood that led the Baloch to wage conflicts – albeit with various scale and scope – against the state (Ahmed 2020). The orientations, reorientations and trends of Baloch nationalism have never been monolithic, particularly after 1969 when Balochistan sought the status of a province (Khan. G, 2014). In order to examine Balochistan's nationalism and its conflict with the Pakistani state, one can see that history, ethnic identity, resource distribution, and political relationship with the federation all play an important role in explaining and shaping the trend, orientation, nature, and scope of Balochistan's nationalism and its subsequent conflicts with the state.

The nationalistic struggle of Balochistan has not been static, because for maximum of the time Baloch nationalism oscillates between the politics of elite (tribal sardars) and the lower middle-class leadership. In this regard Ali (2005) argues that Baloch nationalism, broadly speaking, has always had two distinct strands: the federalists and the radical nationalists. The federalists believe in constitutional federalism while the radical nationalists tend to fight for separation from the state (Ali, 2005). On the one hand, the Pakistani power elite has invariably maintained and manipulated the social and political structure of Balochistan dominated by tribal-based social structure in their (Pakistani power elite) favour. On the other hand, there has been a sense of disgruntlement and disillusionment among the middle and lower middle-class leadership and political workers in Balochistan against the state of Pakistan, which led to an assertive nationalism among a section of the Baloch and frequent conflicts with the state. Hence, in the ensuing years, numerous voices were raised for provincial self-rule and the right of self-determination for an independent Balochistan. The changing shape of Baloch nationalism from the extreme slogan of (ethno)national identity to economic exploitation and political misrepresentation within the Pakistani state is instrumental in explaining the trends in the federal structure of Pakistan.

The post-colonial Baloch nationalism is largely shaped by politics, economic policies, constitutional formation and the federal structure of Pakistan. The dynamics of Baloch nationalism, and consequential conflicts with the state, can therefore be better understood if it is discussed and analysed with the Pakistani state and its federal structure (Ahmed 2020, p.11). This paper discusses the emergence and outlines the development and dynamics of federalist politics in postcolonial Balochistan by looking at the evolution of federation in Pakistan and contextualises the changes in the policy and practice in terms of confrontation between two distinct strands of Baloch nationalists, i.e. the federalists and the radicals. The paper is divided into four sections. The paper begins with a general introduction to the ethnic diversity and the federal structure of Pakistan. The second section provides a brief background of the constitutional setup and federal issues in Pakistan. Third, an explanation of Pakistan's federal arrangement in the post-colonial era covering the federal structure and issues under the 1962 and 1972 constitutions and the respective nature of Baloch

nationalism during this period is being examined. The last section discusses the 18<sup>th</sup> constitutional amendment and the extension of autonomy to the provinces.

### Background of the Constitutional Setup of Pakistan and Federal Issues

After partition, Pakistan worked under the British Government of India Act 1935 (re-titled as the Indian Independence Act of 1947), which had established a federal constitution, even though the federal provisions of that Act had not come into being under the British Raj because of the refusal of the princely states to participate. The Government of India Act of 1935 was developed by the British government as a colonial legal instrument. Sections 99 and 100 provided three legislative lists—the Federal List, the Concurrent List and the Provincial List. The subjects listed as concurrent fell under the joint legislative control of the Federal and Provincial Governments. The Unrepealed Constitutional Legislation, in its modified form, gave Pakistan's new federal government exclusive jurisdiction over 59 areas, which include defence, foreign affairs, banking and currency, income tax, and foreign trade, among others. The Concurrent List had 36 items and the Provincial List had 54 items. An Intra-Provincial Council was also created under Section 135 to resolve disputes, if any, between the federation and provinces or among provinces (Baxter 1974 p.1075). Although the central and provincial governments were considered sovereign in their domains, the central government had extraordinary powers (Section 10(1) of the Unrepealed Constitutional Legislation) to declare a state of emergency in the event of external attacks or internal disturbances. In the early 1950s, the Governor-General (then the state's main executive) invoked Section 10(1) to remove various provincial administrations arbitrarily. However, the Unrepealed Constitutional Legislation was adopted as a temporary constitution. Attempts were being made to draft a permanent constitution that would represent Pakistan's future state and nation-building goals (Burks, 1954).

Pakistan did not finalise its own Constitution until 1956, nine years after independence. Progress on writing the constitution started in earnest in 1949 with the publication of Liaquat Ali Khan's Objectives Resolution, setting out the parameters within which the state would operate. The "Basic Principles Committee" in its 1952 report advocated for a federal government and a constitution based on Islamic principles and ideals. This, however, was hampered by two issues- the first one is the makeup of the Legislative Assembly and the powers that the upper and lower chambers of the Assembly would have and the second issue concerns the future state's Islamic character (Baxter 1974, p.1080). Various proposals, all of which involved a federal structure, shuttled back and forward (see Samad, 1995) before the Mohammad Ali Bogra's Formula of 1953 was accepted. This formula 'solved' the problem of Bengali over-representation by creating equality through a bicameral legislature: East Bengal had a majority of seats in the lower chamber, but the provinces of the western wing had a majority of seats in the upper chamber. When added together, the eastern and western wings had an equal number of seats. This was satisfactory to both wings because of the provision that "in the case of difference of opinion between the two Houses in respect of any measure, the following step will be taken: a Joint Session of the two Houses will be called; the measure may then be passed by a majority vote, provided the majority includes 30 per cent of the members present and voting from each zone" (Bogra, 1953). The Bogra Formula was translated into the constitution that was passed by the Constituent Assembly in 1954, but this

constitution did not come into force. The protracted constitution formation process provided the conditions for the army and bureaucracy to increase their influence. Therefore, the Constituent Assembly that had adopted the Bogra Formula as the basis for a constitution was immediately dismissed by Governor General Ghulam Mohammad. The constitution had also sought to curb the power of the Governor General. The Constituent Assembly was eventually reconvened after extensive judicial wrangling (see Samad 1995, p.172).

## Comparing Pakistan's Federal Structure under the Constitutions of 1956, 1962 and 1973

The Constitution of 1956 was a centralised federation, a comprehensive document with 13 parts and six schedules. Many of the articles in the constitution, however, were derived from the Government of India Act 1935 and hence shared a lot of similarities with the 1947 Unrepealed Constitutional Legislation (Choudhury, 1956). The 1956 Constitution also provided for a federal, parliamentary governance structure for Pakistan (Article 1). Article 43 created a unicameral Parliament and Article 44 specified the number of seats at 300. The Constitution recognised the concept of One Unit and seats in the Parliament were equally divided between East and West Pakistan, with ten seats reserved for women. This sparked a debate in West Pakistan between Bengalis and other ethnic groups. The Bengalis perceived it as a political trick to take away their numerical advantage (Baxter, 1974; Choudhury, 1956; and Rabbani, 2011). Article 106 divided subjects into three legislative lists, vis., the Federal List (thirty items), the Concurrent List (nineteen items) and the Provincial List (ninety-three items). Most items of greater significance were either in the Federal List or in the Concurrent List (Rabbani, 2011).

The Constitution also created a National Economic Council comprising four federal ministers and three ministers from each province. It also created a National Finance Commission (NFC) to make recommendations regarding the distribution of resources between the federation and provinces. However, the commission could only make recommendations, which were not binding on the federal government. Despite its federal and democratic nature, the 1956 Constitution had two significant centralising provisions. First, Article 109 states that the federal government shall have residual powers, which include the ability to legislate on issues not mentioned in any of the three lists. Second, Article 92 required the governor's approval before submitting a bill or amendment addressing an issue specified in a money bill or involving the expenditure of provincial revenue. Since the governor was a federal nominee, provincial legislative authority was essentially limited. Furthermore, there was no provision for resolving disputes instead, the Constitution obliged the Chief Justice of Pakistan to resolve any disputes between the two provinces or between the federation and the provinces (Rana, 2020). The president would be elected by an electoral college made up of elected members of national and provincial assemblies, and the president would be bound by the constitution while exercising his or her duties. The powers of the president and the Governor General's arbitrary powers were severely curtailed under the new constitution, which prohibited the president from dissolving the central government unless the Prime Minister had the approval of a majority of members of the National Assembly (NA). During an emergency 'Parliament shall have power to make laws for a province and give direction to a Province as to how the executive authority of the province is to be exercised. Indeed, things looked promising for the establishment of a democratic and federal Pakistan, at least in the early years of Pakistan's independence. But before national elections could be held under this constitution, indeed some would argue, to prevent national elections from being held. Iskander Mirza, President of Pakistan, and Ayub Khan, seized power in October 1958 (Stern, 2001). Talbot notes that 'Ayub's coup of 1958 had indeed been prompted precisely by the desire to head off elections which would deliver a populist challenge to the dominant elites; domestic and foreign policy interests (Talbot, 2010, p.193).

The new constitution of 1962, in contrast to the 1956 constitution, constituted a significant shift from a parliamentary to a presidential system of government, and the party-based political system was temporarily suspended (Baxter, 1974). To begin with, Article 1 of the new Constitution dropped the word 'federation', and simply stated that the state of Pakistan should be known as the 'Republic of Pakistan'. The NA was given limited legislative powers and authority over the national budget, while the President retained all administrative powers, including the ability to designate ministers, invalidate bills passed by the Assembly, and dissolve the Assembly during a crisis (Singhal, 1962). The federation's structural arrangements, such as One-Unit scheme of 1955, which merged all provinces in the western sector to restrict the numerical strength of the eastern wing, appeared to be an irrational approach (Jetly, 2009). In this regard, Article 70 created two separate assemblies for East and West Pakistan, which were granted parity in all federal matters. The Constitution provided for a unicameral federal legislature with 156 members equally divided between the two provinces (six seats reserved for women). The 1962 Constitution provided only one list (Third Schedule) containing forty-three subjects on which the central government could exclusively legislate. Article 132 vested the residual powers with provinces. Vesting provinces with residual powers was an important step to decentralise authority and responsibility. On the other hand, Article 131 empowered the Central Legislature to make laws in the national interest of Pakistan on matters of national security, economic and financial stability and planning and coordination. This was an open-ended provision and created an allowance for the Central Government to regulate even those matters that were not included in the Central List. Article 74 declared that in case of a conflict between the governor (a federal nominee) and a Provincial Assembly if the conflict was decided in favour of the governor by the NA, the governor could dissolve the Provincial Assembly with the consent of the President. Furthermore, the National Economic Council was to be nominated by the President, with no specific provision for provincial representation. These provisions of the Constitution effectively circumscribed provincial autonomy.

The new constitution of 1962 adopted the notion of parity between East and West Pakistan, as did the 1956 constitution. Most of the powers granted to regional governments under the 1956 constitution were taken away. While the provincial assemblies were not in session, the provincial governors were given exceptional powers to control the two provinces by passing ordinances. Furthermore, disagreements between a governor and the provincial assembly in question had to be reported to the NA for resolution. Any verdict in favour of the governor would result in the provincial assembly being dissolved and new elections being held. This provision was included in the constitution to keep provincial legislatures fearful of being punished if they took a stand against Ayub's undemocratic manner of government (Waseem, 2011). This move was severely criticised by the smaller ethno-

national groups. Thus, the respective constitutions of 1956 and 1962 happened to fail to accommodate the diverse society under the banner of federalism.

The concept of unity in diversity and self-rule and shared rule which is one of the main principles of federalism is not seen from 1948 to 1970 in the constitutions of Pakistan whether it was 1956 or 1962 constitution. The smaller ethno-national groups as well as the majority group such as the Bengali, were agitating for more autonomy and equal representation in the central institutions, such as the parliament and the armed forces. However, it was the establishment, dominated by the majority group in civil and military bureaucracy, who were ruling the country in the way they wished. For instance, from 1947 to 1970 they did not conduct general elections in Pakistan due to the fear that they would lose the power to the Bengalis who were in the majority at that time in terms of population. When in 1970, the first ever general elections were held, Mujib-ur-Rehaman of Awami League from East Pakistan won the majority of the seats and emerged as a dominant parliamentary party in the country but he was denied to form the Government at the centre, a clear violation of democratic and Parliamentary norms, which resulted in the dismemberment of Pakistan in 1971.

The 1973 constitution, was approved by the (NA) in April that enunciated the federal character of the state. It created a bicameral legislature, unlike previous constitutions that only had one house of parliament, that is, the National Assembly by adding a second house, the Senate, to represent the provinces in the national parliament and provincial assemblies for each province. Many of the opposition's demands were incorporated, and it was aimed to be inclusive by establishing a bicameral legislature, unlike its predecessors (Baxter, 1974; Khan, 2005). The fourth schedule to the constitution contained two lists: the federal legislative list and the concurrent legislative list. The central legislature was empowered to legislate on the matters enumerated in the federal legislative list, containing 67 items and both the central and provincial governments were empowered to legislate on the matters enumerated in the concurrent list, containing 47 items, but in case of conflict, the central law was to prevail. In other words, the central government had actual competence not only on the subjects mentioned in the federal legislative list but also on the matters enumerated in the concurrent list. While provinces could legislate on any subject not included in the federal list, in case of a clash between federal law and a provincial law on a subject in the concurrent list, the federal law was to prevail (Article 143). Article 144 of the constitution allowed the federal government to legislate even on a residual subject, provided a specific request to this effect was made by at least two provincial assemblies. In the case of such legislation, however, a province could at any time annul or amend the federal legislation to the extent of such a province (Baxter, 1974; Khan & Mengal 2017, p.23; Rana 2023, p.64).

The allocations of legislative powers and the federal legislative list were divided into two parts wherein Part I contains 59 items and Part II contains 8 items respectively. In part I, important matters such as defence, external affairs, currency, major ports, and financial affairs were included on which only the NA could legislate. Part II consisted of more general matters such as railways and industrial development on which both houses were given equal powers to legislate. In case of any differences between the two houses, the matter was to be resolved through the joint sitting of the parliament (Baxter 1974, p.1082). The administrative relations between the federation and provinces were dealt with in Part V of the Constitution. The most important feature of this relationship was the Council of Common Interest (CCI), which provided

for joint decision-making by the federation and provinces on certain matters (Naazer, 2022). Article 160 created a National Finance Commission (NFC) that was entrusted with the task of making recommendations regarding the distribution of revenue between the Federal Government and Provincial Governments (Shah, 2012; Rana 2020, 64). However, a look at the composition of the federal parliament suggested very little chance for the smaller provinces to override the majority province. The overwhelming representation of Punjab within the central parliament underscored the predominance of this province with the federal political framework. This allocation of Parliamentary seats solidified the hegemony of a primary ethnic region at the heart of the federation. Consequently, with Punjab constituting 56 per cent of the total population, it possessed the capacity to sway the outcome of legislative proposals, thereby influencing decisions that align with its interests. (Khan & Mengal, 23-24; Khan 2005).

### Politics of Pakistan's Federal Arrangement and Baloch Nationalism in the Post-Colonial Era.

After the annexation of Kalat to Pakistan on 27 March 1948, notwithstanding the rapprochement of Baloch political leadership, the assimilation of the Baloch to the federal polity of Pakistan like other nationalities of the federation was frustrated, which led to a chronic disillusionment in relations between the Baloch and the state. The reason mainly lies in the federal structure of Pakistan, which experimented with a political system that was nonetheless federal in form, yet in practice exercised extreme centralisation of power and functions. Governing through unitary principles in an ethnically and linguistically diverse country like Pakistan, the federal structure is bound to create discontent and mistrust among the provinces and resentment towards the federation. Following the forcible annexation of Balochistan, Pakistan's first Governor-General, Mohammad Ali Jinnah, formed a provincial advisory council under his direct supervision (Khan, 2009). At that time, Balochistan was administered by a Quetta-based commissioner i.e. from 1948 to 1955, with most Baloch sardars (tribal leaders) receiving a salary from the federal government which was a British policy of "levies" that was passed down to Pakistan (Aslam, 2011). There was no genuine attempt to instil the spirit of cooperative federalism for peaceful conflict settlement. Despite the mistrust between the Baloch nationalists and the state, the majority of the Baloch adopted an accommodating attitude towards the federation. The initial demands of the people of Balochistan were: first, a provincial status for Balochistan with unadulterated autonomy by their geography, political and economic realities, and social structure; and second, to make Pakistan a democratic republic with a federal structure to meet provincial self-rule and autonomy (Janmahmad, 1989).

Balochistan was given the status of a full-fledged province for the first time only in 1972. During Bhutto's period, there was a visible increase in federal funds for Balochistan, which rose from Rs 120 million in 1972-73 to Rs 210 million in 1974 (Government of Pakistan, 1974). Vast amounts of money were invested in building roads; opening schools, colleges and technical institutions; extending credit and banking facilities; electrification; harnessing groundwater resources; and installing tube wells for irrigation and improving the health sector (Jetly, 2009). The 1973 constitution provided for a National Assembly (NA) where the majority belonged to Punjab and the Senate had given equal representation to all the four provinces.

However, it may be noted that out of the five Members of NA (MNAs) from Balochistan, only two put their signature on the constitution while the rest refused to sign the constitutional document due to lack of provisions vis-à-vis the provincial autonomy and control of provinces over their natural resources (Khan, 2014).

Despite having the new phase of federalism and parliamentary democracy under the 1973 constitution, the people of Balochistan were dissatisfied because there was no separate provincial list to empower the most disadvantaged provinces. Moreover, the concurrent list demonstrated the federal government's superiority in the event of a conflict. Due to discriminatory policies, the province's nationalist movement, which has existed since 1947, became more violent under the Bhutto's government (Ashraf & Shahzad, 2020). The National Awami Party (NAP)<sup>1</sup> government advocating the rights of smaller nations demanding more autonomy for the provinces, gained enough seats to form a coalition government in Balochistan and North West Frontier Province in the general elections that took place in December 1970. Zulifiqar Ali Bhutto, having centralised tendencies, was not happy with the NAP leadership. Fearing that the NAP would make the western region especially Balochistan, another rebellious east Pakistan, Bhutto removed the NAP government by dismissing the Mengal government nine months after its formation, accusing it of undermining the state, exceeding constitutional limits, and alleged that it conspired with foreign governments (Baxter, 1974; Nawaz, 2008; and Aslam, 2011). The dismissal of the provincial assembly was seen as ethnically driven. Thus, the government arrested most of the Baloch leaders including Ghaus Bakhsh Bizenjo, Nawab Khair Bakhsh Marri and Sardar Attaullah Mengal on charges of treason, while Akbar Khan Bugti, remained governor of Balochistan for a long time during the 1970s and 1980s. This ignited the opening of another phase of conflict, which lasted from 1973 to 1977. At the height of insurgency in 1973, more than 5,000 insurgents and over 3, 300 soldiers were killed that lingered on until 1977 (Bansal 2008, 184). On a wide scale, coercion was used to crush the Baluch insurgents (Kukreja, 2003; Aslam 2011; Khan 2009). It is important to mention that in the 1973 constitution, a provision was made to remove the concurrent list of powers after ten years. However, this was never implemented even after many decades. The withdrawal of the concurrent list only became possible under the 18th Amendment Act in April 2010. Furthermore, an observation of the period from 1977 to 2000, suggests an era of assimilation and political pragmatism. During this period, the relationship between the Baloch and federation of Pakistan remained less hostile.

In 1977, regime change in the form of Zia's military coup at national level had widespread repercussions for Balochistan's nationalistic struggle. During this phase the Baloch nationalists forged to assimilate into federal and mainstream political structure of Pakistan. On the development front from 1977 to 1985, a record Rs 4,000 million was injected into Balochistan. Among the major projects completed in this time were the extension of Sui gas to Quetta; the completion of the RCD highway;

<sup>&</sup>lt;sup>1</sup> The National Awami Party (NAP) defined Pashtun and Balochi politics in the early decades of Pakistan's creation. Formed in 1957, the NAP included noted Pashtun, Baloch, Sindhi and Bengali nationalist thinkers and politicians, whose objective was for greater autonomy for the non-Punjabi populations of the country (Paracha 2014). In 1967, the party split into two factions over differences on how to achieve a socialist revolution. The pro-Soviet faction (which worked to achieve provincial autonomy in a democratic manner) was led by Wali Khan, the son of Gaffar Khan.

the New Quetta airport, airstrips at Pasni and Turbat, a TV complex in Quetta, radio stations at Khuzdar and Turbat, and the completion of the Bolan Medical College (Jetly 2009, p.222). The nature of Baloch nationalism remained politically pragmatic. However, while the Baloch political and tribal elite collaborated with the state apparatus the internal politics of Balochistan underwent further divisions and factionalism with more splinter groups and small alliances (Jaffrelot 2002, p.30; Khan, 2014). Thus, the Baloch nationalism became polyphonic during this period marked by the contradictory forces of assimilation and political pragmatism. The Baluch nationalist movement of the 1980s restrained itself from the support of the middle class and intelligentsia, both of which were fairly small in the province where the literacy rate was the lowest at merely 10.1 per cent (Ahmed, 2011). The return of democracy hailed the return of Baloch notables who readily made considerable compromises with the state. The 1988 general elections proved effective for those Baloch Sardars who regained their political power by winning several seats in Balochdominated regions. Yet politics in the province remained somewhat hostage to factional fights, which was evident in the aftermath of the 1988 elections. During the 1990s Baloch politics fragmented further into groups and subgroups, each striking alliances with the parties to be in power in the region. Owing to the conflicts of interest, the economic and social rights of the people were utterly ignored, which caused discontent among the people, which consequently led to yet another insurgency in Balochistan.

# Restructuring the Amendment and the Extension of Autonomy to Provinces

In 2002, General Musharraf, took a radical turn about the state's policies towards Balochistan. The announcement of a special package named 'Vision for Development of Baluchistan' of Rs 19.5 billion in 2006 and the announcement for the creation of 32,124 jobs to expedite and spur development in the province were seen as the first major incentives announced by the government to pacify the Baluch after Bugti's killing in August 2006 and also comprised financial packages for Dera Bugti and Kohlu districts, which were adversely affected during the battles between the Baluch and the federal government.

During this period Musharraf also announced grants of Rs 1 billion for the development of Quetta and Rs 100 million each for each of the 28 districts of the province in December 2006. An additional grant of Rs 2.5 billion was announced for parliamentarians to launch development schemes in their respective constituencies. Other economic incentives included seven new cadet colleges, two more campuses of the Baluchistan University at Gwadar and Turbat and 1,000 scholarships for Baloch students. In addition, a network of new roads linking Loralai with DG Khan and Zhob with DI Khan was announced to ensure that development benefits reach all parts of the province (Jetly 2009, p.222). The Balochistan Package, or Aghaz-e-Haqqoq-e-Balochistan, promised 5000 employment and thousands of scholarships to Balochistan's youth, as well as the release of political prisoners and an economic package to improve the province's infrastructure (Haq, 2010; and Rais, 2012). It is true that large amounts of resources have been spent or are being allocated for mega projects in Balochistan. Primarily the Baloch government itself identifies ten projects worth a total of Rs 104 billion as federal government mega projects, related to service provision or small-scale civil works. Thus, if one considers large-scale civil engineering

infrastructure development as mega projects, one is left with a list of 8 projects worth Rs 98 billion. This amount is large and significant, but much lower than figures such as 120 billion to 200 billion that are freely mentioned in speeches of government leaders. What is remarkable is that out of the Rs 98 billion allocated for Balochistan mega projects, 86 per cent accounted for just two schemes that is, Gwadar Port (and related infrastructure), and the Kachhi Canal. Thus far from an all-round development of Balochistan's economy and society the existing mega projects focused only on two specific areas (Budhani & Mallah, 2007; Gazdar et al, 2007).

### Eighteenth Constitutional Amendment and Baloch Nationalism

Pakistan made a significant step towards federalism with the passage of the 18th Amendment to the constitution in April 2010, which was described as the most comprehensive reform package in the country's history. In Pakistan, both the substance and the form of federalism are ethnic. The 18th Amendment was drafted mostly along ethnic lines, although technically it appears to have been drafted along provincial lines. The elimination of the Concurrent List, which ensured the transfer of considerable amounts of economic authority to the provinces, has given the provinces new rights, which had previously given the central government the final say over certain areas of joint jurisdiction and transferring (most) political and economic powers to the provinces. As a result of this abolition (of the concurrent list), more than 30 policy areas became solely provincial matters. In many ways, the 18th Amendment to the Constitution was an outcome of the 2006 Charter of Democracy (CoD) agreed between the Pakistan Muslim League—Nawaz (PML-N) and the Pakistan People's Party (PPP) (Bukhari & Faisal, 2013; Sheikh 2023, 621; and Hassan, 2020).

The Pakistan People's Party (PPP), through the 18<sup>th</sup> constitutional amendment, attempted to strengthen the federal and democratic structure of the country and thereof created a cooperative and working relationship between the federal and provincial governments and also envisioned a decentralised federation (Adeney, 2007; 2012) to resolve ethnic conflict and civilian supremacy to restrict the military's ability to intervene in politics. Accordingly, the subsequent amendment made the provinces joint and equal owners of oil and natural gas alongside the federal government (Article 172/3). The 2009 National Finance Commission (NFC) award—which was given constitutional protection via the amendment—increased the provincial share of federal revenues to almost 58 percent as opposed to the previous 42 percent. Article 58 (2) (B), was amended to neutralise the military's ability to influence the president to dissolve elected governments. Article 112 (2) (B), which gave similar powers to the provincial governors vis-à-vis provincial assemblies, was also reformed to strengthen provincial elected officials as a means of empowering ethnic groups vis-à-vis the central government (Sheikh 2023, 620).

Theoretically, the 18<sup>th</sup> amendment stopped the possibility of future military coup d'etats in Pakistan by amending Article 6 clauses 1 to 3. However, the amendment did not transfer matters such as electricity, major ports, and gas/mineral resources to the provinces, which were decades-old demand of the nationalist parties. Rather, it placed these items under the federal legislative list, Part II wherein the Senate has the opportunity to legislate on these matters equally with the National Assembly (NA) (Article 6) (Adeney 2012; Faisal 2010). The majoritarian federal structure gives a bigger province an unchallenged sway in the national assembly. Thus, the province

of Punjab can easily override all the existing provinces in any parliament sitting if any law or amendment goes against its interests (Waseem, 2014). Smaller provinces often grumble about the Punjabi hegemony and their lack of representation in different institutions of the state. To put an end to the pervasive perception of Punjabi domination among the weaker provinces, particularly Balochistan and strengthen their affinity towards the state, the institutional balance in the country must be remedied (Wani, 2024). Balochistan has always had a lot more room and autonomy under the 18th Amendment to develop its own administrative and fiscal arrangements. The 18th Amendment has made it obligatory that the share of a province in the new award would never be less than what it was received earlier. There is also a provision for the annual monitoring of the implementation of the award. The monitoring report has to be presented to national and provincial assemblies. The provinces can raise loans to expand their revenue generation base. A breakthrough in fiscal federalism was achieved under the coalition government led by the Pakistan People's Party (PPP). The share of provinces under the 7<sup>th</sup> National Finance Commission (NFC) award was increased from 47 per cent to 50 per cent of the divisible pool for 2010-2011 and 57.5 percent for the next four years (PILDAT 2007, 7). Progressive criteria for the award benefitted the provinces immensely (Amjad, 2010). Factors such as poverty, revenue generation and inverse population density (case of Balochistan), in addition to population, were recognised for the determination of award (Mustafa, 2011). The award also changed the ratio of the provincial share: Punjab-51.74 per cent, Sindh-24.55 per cent, NWFP-14.62 per cent and Balochistan-9.09 per cent (Younis and Shahzad, 2017; and Yang, 2010). The 7th NFC Award has paved the way for rebuilding and strengthening fiscal federalism in Pakistan. There is a provision for NFC, under Article 160 of the constitution of Pakistan, to transfer resources from the federal divisible pool to the provinces, it is responsible for the vertical distribution that is the total share, that each province enjoys (Younis & Shahzad, 2017; Shah 2012).

However, the 18th Amendment has been ineffective in addressing decades-old grievances in Balochistan. While it gave the province constitutional and fiscal flexibility, it did little to alleviate the province's continuing economic and political problems. On the other hand, the economic ramifications of the NFC Award, like the 18th Amendment, are crucial because intergovernmental revenue transfers are the backbone of Pakistan's provinces. Around 89 percent of provincial revenue comes from these transfers (Ahmed and Kamal, 2014). This reliance is the result of an imbalance in the allocation of functional responsibilities and fiscal power between Pakistan's federal and provincial governments, which has resulted in a significant vertical imbalance (Pasha & Pasha, 2015). The 18th Amendment and the 7th NFC Award were both attempts to reinforce Pakistan's federalism (Ahmed 2018). The province of Balochistan needs a system of distributive justice that concerns the equitable allocation of social and economic rewards and provisions. Before the 2009 NFC award, the funds assigned to the provinces were distributed on a population basis, which harmed smaller provinces, particularly Balochistan. However, under this award, the long-term demand of smaller provinces to distribute the devisable pool funds according to multiple factors was accepted. Resultantly, the share of funds increased for smaller provinces like Balochistan in particular. Despite these advances, Balochistan's nationalist policies remain unchanged. The 7th NFC Award, for example, gave the province more fiscal flexibility. However, increased budgetary

supply did not result in an improvement in Balochistan's socioeconomic profile (Ahmed, 2018). Similarly, the 18th Amendment failed to instil in Baloch nationalists a feeling of political ownership and a long-term faith in federalism.

It is reasonable to argue that the improved fiscal space created by the 7<sup>th</sup> NFC Award, combined with the constitutional and administrative leverage provided by the 18th Amendment, has further consolidated the sardars political and economic control at the provincial level. Moreover, a new generation of state-nurtured business class (through both legal and illegal means) along with persons from an espionage background have leaned closer to these sardars for power sharing. Their financial resources give them the ability to stifle any indigenous political uprising that would challenge their elite's hold on power (Ahmed 2020, p.21-23). The federation was not successful in winning the support of the Baloch people against the backdrop of ruthless policies of the federal government, as the federation had extended support to unrepresentative elements, leading to a devastating effect on the very social and peaceful fabric of Balochistan's society. Also, the structural flaws in the social and political landscape of Balochistan allowed and promoted a sheer 'elite capture', which has impeded the social and economic development in the province. Unlike earlier conflicts, in the post-2000 rebellion a hardliner and radical discourse was more visible in Baloch nationalistic and political discourse with a clear sense of discord from the state (Ahmed 2020, p.16).

#### 18th Amendment and the Politics of Natural Resources

One of the primary drivers of conflict in Balochistan is the perceived exploitation of the province's natural resources. The federal government previously held sole ownership of land, minerals and resources, with provinces entitled only to receive royalties on these resources. However, the 18th Amendment significantly changed the power structure by transferring the ownership and control of natural resources. Article 172 affirms the ownership of natural resources by the provinces of Pakistan and gives them the right to explore, develop and produce these resources while also ensuring that any revenue generated from these resources goes to the respective provinces. Article 161 was amended to allocate the entire net proceeds of federal excise duty on oil at the wellhead to the provinces where the wellheads are located. Previously, only the net proceeds of the excise duty on natural gas went to the respective province. In addition, the sales tax on services was removed from the federal list and converted to provincial tax. Moreover, any fresh exploration of minerals, oil and natural gas located within a province or in the territorial waters adjacent to a province was to be owned by both the federal and provincial governments on an equal and shared basis (Rana, 2020).

To pacify Baloch, anger the Pakistani state has taken initiatives to delegate such powers that would allow the Balochistan administration to exert significant control over its resources. Even the notion of equal ownership is rendered meaningless due to legislative uncertainty. For example, Article 158 of the Constitution grants provinces the right to fulfil their oil and gas requirements before transmitting to other provinces, whereas Article 172-3 overrides the principle of preferential utilisation by the producing province by providing for equal apportionment of minerals, oil, and natural gas between the centre and the province (Rana 2024, 10). Although the amendment enhanced the Balochistan government's share in the profit

to 37 per cent, until 2010 the provincial government was paid only rent and a meagre 5 percent royalty (Notezai, 2018). After the passage of the 18<sup>th</sup> amendment, but pending the expiry of the lease agreement with the Chinese company in 2017, the Saindak project was slated to be transferred to the provincial government. However, this project was once again leased for 15 years in 2022 by the federal government for a new term as against the constitutional right of provinces (Notezai, 2018; Notezai, 2020). This federal action infringed on the Balochistan's rights under the amendment to make decisions about the project.

Again, no other project evokes as much resentment among the Baloch as the Gwadar Port. Gwadar has become the epicentre of the renewed Baloch militancy. The port is seen as a 'colonial' period, as it brings little benefit to the local population. The port's development encroached on crucial fishing areas, limiting local sea access and resulting in the displacement of fishermen. The predominance of Chinese labour, combined with limited local employment opportunities, has intensified tensions. Despite its portrayal as a futuristic port city, Gwadar still lacks basic amenities like drinking water. According to official projections, the port city would attract millions of economic migrants from other parts of the country and outside, mainly from China. The Baloch leaders worry that Gwadar, a district with only 263,514 population according to the 2017 census, would be swamped by the influx of migrants, thereby reshaping the city's demographic balance (Wani 2024, p.11). Balochis demand, to transfer control of the port to the provincial government was however neglected and in 2017, the port was given over to the Chinese state enterprise i.e. China Overseas Port Holding Company (COPHC) for 40 years. According to the agreement's terms, COPHC keeps 91 per cent of the revenue collected, while the Gwadar Port Authority, a federal entity, receives only 9 per cent for the next 40 years. Balochistan was divested of any revenue collection (Wani, 2021b). The right to equal ownership and revenue sharing has not translated into reality yet. No subordinate legislations have been created to implement the amendment. The issue of benefit-sharing from natural resources will likely remain contentious if centralised management and exploration continue. Devolution and capacity building of provincial governments are essential for effective decentralisation from the federal government (Naveed and Khan, 2018).

The amendment's failure to comprehensively address some of the aforementioned questions that underpin the current insurgency appears to be a significant factor in its rejection by major nationalist parties such as the Balochistan National Party-Mengal (BNP-M) and separatists (Baloch, 2010b). Since 2010, there has been no break from forceful abductions; in fact, the cases have accumulated and are estimated to number in the thousands, according to Baloch activists. Despite judicial intervention, local protest, and global censure, security agencies' operations remain virtually unchanged. The 18th Amendment sharpened the military establishment's sense of the necessity of forcefully maintaining Pakistan as a centralised state to protect its territorial integrity. While the 2010 constitutional reform process reversed some of the changes made by the previous military regimes, it took no significant steps to produce a civilian-led alternative to the prevailing military-centric hegemonic order (Sheikh 2023, 626). Although the post-2010 period also saw some civil-military contestation, Balochistan itself was hardly an issue that civilians wanted to take control of. Most civilian governments largely reproduced the military's narrative about Balochistan and accepted the necessity of long-term military deployment as the solution. The PPP government (2008-2013) did not challenge the military's position either. Even though the PML-N was a coalition partner of the Balochistan-based National Party (NP) in the provincial government between 2013 and 2018, the alliance did not challenge, the military's monopoly in the province (Sheikh 2023, p.629).

The rise of the military-backed Balochistan Awami Party (BAP) only months before the 2018 general elections and the subsequent marginalisation of Baloch nationalist parties, helped the military extend its control over Balochistan and, subsequently, Pakistan as a whole (Sheikh 2023, p.630). The military's overall dominance reinforced its ability to exclusively frame the Baloch question as a national security issue rather than an ethnic issue that could be resolved politically by using its multi-faceted strategy involving illegal 'enforced disappearances', ongoing military operations, the installation of weak civilian governments via military-backed political parties, and the marginalisation of democratic civilian forces, both provincial and national, in politically resolving the Baloch question (Sheikh 2023, p.626).

The failure to address the civil-military imbalance not only exacerbates ethnic conflict and neutralises constitutional power-sharing but also allows the military to strategically use its long-term involvement in existing ethnic conflicts by using its extra-constitutional powers. In Pakistan, the feature of de facto civil-military arrangements favours the military. Since the military was already fighting an anti-separatist war in Balochistan – and therefore held a dominant position in the region—it became a key source for the reproduction of new, indirect forms of military dominance after 2010. In this context, the emergence of BAP in 2018 and its electoral control of Balochistan province, its participation in two different federal government coalitions between 2018 and 2023, and its subsequent control of key political positions, including the prime ministership in the 2023 caretaker government, reflect the centrality of Balochistan in reproducing a military-centred political order at the national level.

### Conclusion

Baloch nationalism is not a monolithic entity that has stayed the same since the first Baloch conflict with the Federation of Pakistan in 1948. There has been a shift in balance between the federalist and the separatist variants of Baloch nationalism. The announcement of mega-projects by General Pervez Musharraf's regime in the province of Balochistan and the killing of Bugti in 2006, have once again increased the separatist creed amongst the Baloch masses. The constitutional amendment that had the most impact on de/centralisation in Pakistan was undoubtedly the civilianled 18th Amendment. This change, coupled with the 7th NFC, can be considered the most 'expansive decentralisation reform that has fostered an environment conducive to federalism' (Shahid 2015, 142). Although they have used different instruments, the institutional actors responsible for changes in de/centralisation in Pakistan have been the military, political parties, and the Supreme Court. On the other hand, with the passage of 18th Amendment the federalists are optimistic about a better future for the Baloch masses within a federal Pakistan so long as the Baloch have control over their internal affairs and resources.

The government claims it wants to change the province's fate. The eighteenth amendment represented a substantial shift in Pakistan's governmental system. It gave the provinces more authority to quell the unrest in Balochistan and confront

the growing separatist sentiment, given that the main demands of Baloch nationalism appeared to be within Pakistan's constitutional framework. While the amendment helped to consolidate democracy by delegitimising outright military takeovers, it did not succeed in shifting power dynamics in favour of civilian government. Although the 18<sup>th</sup> Amendment is widely regarded as a significant step towards decentralisation, it's worth noting that it was a revision to Pakistan's most centralised constitution, which is the 1973 constitution (Adeney & Boni 2023, p.747). The amendment empowered provinces by delegating powers and transferring responsibility over natural resources, enhancing financial resource allocation to the provincial authorities. However, its effectiveness in Balochistan was hampered by the absence of key critical areas and insufficient execution, allowing the federal government to retain major authority over critical areas including natural resources and the Gwadar port. Furthermore, it failed to shift the power balance, especially with security agencies, which continued to operate independently of civilian scrutiny.

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