



**RESEARCH PAPER**

**Challenges in designing Bicameral Parliament in Multiethnic Federations: The Pakistani Experience**

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**ABSTRACT**

This paper examines the challenges that the Pakistani federation encountered in creating a bicameral legislature. Despite the fact that the state agreed to adopt a federal system, disagreements over the nature and function of federal political institutions arose during the constitution-making process. In this respect, the major bone of contention between the federating units was the composition and role of federal second chamber in Pakistan. Several bicameral design proposals were turned down by the first constituent assembly of Pakistan. Subsequently, in the constitutions of 1956 and 1962, the federation established a unicameral parliament with equal representation for both provinces regardless of population size. Following the separation of East Pakistan in 1971, a bicameral parliament was established in the 1973 constitution. However, due to the parliamentary system of government, the second chamber was given a subordinate role to the popular house. In this context, the paper provides historical analysis to show how the federation faced challenges in designing a second chamber and assigning it a pivotal role in Pakistan.

**Keywords:** Bicameralism; Federalism; Senate of Pakistan; Multiethnic Federalism, Pakistan

**Introduction**

Pakistan inherited the federal model of government from the Government of India Act of 1935. Slight changes were introduced in the Indian Act of 1935. The federal design of government in Pakistan was not the outcome of the conscious efforts of the constituent units forming Pakistan. The Muslim League had been supporting provincial autonomy and federalism during the years of independence from British rule. What were Muhammad Ali Jinnah's ideas about a strong federation? It is predictable based on his own statement made in 1945. According to him, the ideology of Pakistan assures a federation in the truest sense. A federation like the USA, Canada, and Australia in which the provinces (constituent units) are entirely autonomous. However, some powers will be vested in the federation, which will make it stronger, such as defense and finance (Nazir, 2008).

Similarly, the "Objective Resolution," which is the first formal document in Pakistan's constitutional history, states that Pakistan will form a federation by amalgamating the existing territories and the territories that would like to join it. A federation in which all the constituent territories will remain within their respective jurisdictions. Yes, however, all the constitutional units will be autonomous in all their affairs (Constituent Assembly Debates, 1953).

Despite the strong assertions, the framers of the Constitution had to deal with severe intricacies. The foremost challenge faced by the nascent state of Pakistan in designing a federal bicameral legislature was the issue of representation among the two wings of Pakistan. Similarly, the distribution of powers between the national and provincial levels of government paralyzed systematic efforts to design a federal bicameral legislature. One of the mechanisms devised to settle the issue of representation was the principle of parity representation (G.W.Chaudhry, 1960).

However, a lack of consensus between the political elites of East and West Pakistan continued to spoil the agreed efforts by the framers of the constitution on the issues of representation and the distribution of powers. In particular, the Bengali elite raised their voice against proposals of parity in representation and a strong center. In actuality, East Pakistan demanded provincial autonomy from a weak central government. They also demanded adequate representation in the central legislature on a population basis. Contrary to the political elite of East Pakistan, the politicians of West Pakistan demanded a bicameral legislature with equal representation of all the constituent units in the upper house and a strong central government.

It is tragic to know that the constitutional efforts under the titles of the Basic Principles Committee and the Bogra Formula devised a federal bicameral legislature as the form of government for Pakistan. Since its creation, Pakistan has been preserving multiethnic societies. It is natural that multiethnic societies demand justified representation in all the organs of the government. Multiethnic societies also demand the autonomy of the provinces and an appropriate distribution of powers between the federal government and the provincial government. The constitutions of 1956 and 1962 pursued a unicameral legislature, which further aggravated a sense of alienation among the masses of East Pakistan. The martial law of the Ayub regime exacerbated the nature of relations between these two units of the Pakistani federation. East Pakistan declared independence from Pakistan in 1971. After its separation, the federal bicameral legislature had four units: Punjab, Sindh, Balochistan, and the NWFP (now KPK). The article primarily points out that serious challenges appeared during the phase of designing the federal bicameral legislature. While deliberating on the constitutional history of Pakistan, the article focuses on the challenges that particularly paralyzed measures related to forming a federal bicameral legislature.

### Literature Review

Syed Azhar Ali explores the causes of the development of unicameralism in the United-Pakistan. He assesses various stages of the formation of the second chamber in United Pakistan. He systematically comprehends the strengths and weaknesses of the basic principle committee, the Bogra formula, the constitution commission headed by Justice Shahabuddin, and the constitutions of 1956 and 1962. He evaluated factors such as the geographical distance between East and West Pakistan, the predominance of East Pakistan in terms of population and territory, the Bengali-Punjabi controversy, the mutual suspicions prevalent between the political elites of East and West Pakistan, and the unending controversy on the issue of the quantum of representation in the parliament (Ali, 1995). Like Ali, Mansoor Akbar Kundi also comprehends the problems of the Pakistani federation in the context of the political crisis faced by Pakistan in the initial years of independence. The situation was exacerbated after the presentation of the reports by the Basic Principles Committee (Kundi, 2002).

Contrary to Ali, Rid explicitly describes the evolutionary process of the upper house, or the Senate, in Pakistani federalism, starting from the Objective Resolution to the 18<sup>th</sup> Amendment of 2010. The central topic of discussion in this piece of work is whether the evolutionary process to strengthen the upper house has been completed after the 18<sup>th</sup> amendment or not. He asserted that the Senate of Pakistan has not been successful in getting constitutionally granted equal powers in the National Assembly. Although the 18<sup>th</sup> Amendment has empowered the Senate in terms of oversight of different bills and the appointment of the executive, its role is still nominal in the domain of financial legislation (Rid, 2019).

Deviating from Rid, who analyses the development of the Senate in a highly descriptive manner, Muhammad Mushtaq examines the role of the Senate in Pakistan in the context of the empowerment of ethno-regional minorities. He argues that the minority

groups of Pakistan consider the Senate as a forum that brings them into the corridors of power at the federal level. The different modes of representation, such as putting questions, calling attention, and adjournment motions, have been critically evaluated through a systematic analysis of parliamentary debates in 2017. According to the study, senators from smaller units have been using stated devices on the Senate floor to assert a greater role in the Senate (Mushtaq, 2017).

Umbreen Javed and Zainab Ahmad's research into the role of the Senate prior to and after the 18th Amendment to the 1973 constitution continues. They argue that the Senate enjoys legislative parity. In actuality, the role of the Senate has been limited to the revision of bills moved by the National Assembly (Ahmad & Javed., 2017). It has been argued that the overrepresentation of minority provinces in Pakistan's Senate has allowed smaller provinces to protect their territorial interests. However, the Senate's utility has been diminished by the National Assembly's superior role as a result of the parliamentary system (Mushtaq & Khan, 2018).

### **Devising of the Basic Principle Committee**

The foremost measure taken to design the constitution was the passing of the "Objective Resolution" on March 12, 1949, under the leadership of Liaqat Ali Khan. The "Objective Resolution" provided the basic principles upon which the structure of the constitution was bound to be designed. In the Objective Resolution, the indication of a federal form of government for Pakistan was clearly recommended. After the passing of the Objective Resolution, the first constituent assembly of Pakistan formed the Basic Principles Committee, known as the BPC, consisting of twenty-four (24) members on March 12, 1949. It was designed with the objective of designing the principles upon which the constitution of Pakistan was to be designed (Khan, 2017). The BPC appointed three further committees known as the Sub-Committee on Federal and Provincial Constitution and Distribution of Powers; the Sub-Committee on Franchise; and the Sub-Committee on Judiciary (Constituent Assembly Debates, 1950). On September 28, 1950, the Prime Minister of Pakistan, Mr. Liaqat Ali Khan, presented an interim or provisional report of the "Basic Principles Committee" (BPC) to the first constituent assembly. (Choudhary, G.W. 1967). The report recommended a bicameral assembly comprised of the "House of Units," representing the legislature of the units, and the "House of People," elected directly by the people of Pakistan. The report also provided three lists of powers, in which sixty-seven subjects were vested in the federal executive, thirty-five subjects were specified for the provincial executive, and the concurrent list had thirty-seven subjects. The residuary powers had been vested in the center (Pakistan C. A., 1950). The Basic Principles Committee report (1950) did not clearly describe the composition of the lower house of parliament, but it was recorded in the report about the composition of the upper house that all the provinces in Pakistan, including Balochistan, would be equally represented in this house (BPC Report, 1950, Para 39). The Basic Principles Committee Report also clearly stated that in the event of disagreement between the two houses of parliament, the matter would be brought up in a joint session. The president of Pakistan will have the power to convene a joint session (BPC Report, 1950, Para 36).

The interim report of the BPC had to face adverse criticism from the political elite, particularly from East Pakistan. The political elite of Pakistan conceived the proposals of the interim report regarding designing a strong central government as an attack on the essence of provincial autonomy (Chaoudhry, 1969). The biggest objection to the first BPC report came from East Pakistan. The political leadership of East Pakistan raised the point that giving equal representation to all provinces in the upper house was tantamount to converting the largest province into a fifth of its population. And at least the majority province is being converted into a minority. This is not acceptable to the people of East Pakistan (Chaoudhry, 1969). Keeping in view the strong reaction of the people to the reports of the Basic Principles Committee, Liaqat Ali Khan referred the report back to the constituent assembly. In January 1951, proposals and suggestions were invited to enhance the

credibility of the Basic Principles Committee. A subcommittee was appointed to examine those recommendations and suggestions. The report of the subcommittee was submitted to the Basic Principles Committee in the year of 1952 (Khan, 2017).

The principle of parity among the two wings of Pakistan was introduced in the second draft of the BPC, and it also demanded a balance of power through the constitution and a balance of responsibilities from East and West Pakistan. In this BPC report, a total of one hundred and twenty seats were kept in the upper house of Pakistan, which were divided equally between East and West Pakistan, i.e., sixty seats for each. It was proposed to divide these seats among different provinces and regions in West Pakistan (BPC Report, 1952, para. 43). The specifics are listed in the table below. The BPC report met with criticism on two grounds, mainly. The first was the allocation of seats equally between East and West Pakistan. By pursuing the principle of parity, the BPC allocated sixty seats and two hundred seats in each of the houses of the legislature for East Pakistan and West Pakistan, respectively (Khan H. , 2009).

Hussain Shaheed Suhrawardi, Atta-Ur-Rehman Khan, Sheksh Mujeeb-ur-Rehman, Allama Mashraqi, and Sardar Akbar Bugti were among those who opposed the bicameral legislature due to improper seat allocation. In the "House of Units" and in the "House of the People" (Riaz, 2002). The other important issue on which some of the members opposed the BPC was the issue of power distribution. The BPC proposed that both houses of Pakistan's parliament have equal power. However, only the lower house will prevail with reference to the budget and financial bills. Both houses will have equal powers to take a vote of confidence or to pass a motion of no confidence. A joint session will be held if there is a conflict or disagreement between the two houses of Pakistan's parliament (Pakistan C. A., 1952).

Table No 1  
Distribution of Seats in BPC report 1952

Region Name	Punjab	Sindh	NWFP	Tribal Areas	Balochistan	Balochistan States	Khairpur State	Capital	Bahawalpur Satate	Total
House of units	27	08	06	05	02	02	02	04	04	60
House of People	90	30	25	17	05	05	04	11	13	200

Source: Debate of First Constituent Assembly of Pakistan

Dr. I.H. Quershi argued that both chambers should have equal powers over budgets, money bills, no-confidence motions, and so on. Besides it, Mr. Sheri Dhirendra-Nath Dutta raised an objection to the report of the Basic Principles Committee with reference to the centralization of the federal government. According to him, the units had been converted into union boards that could pay salaries only to the chokidars and dafadars. He suggested that the provinces should be empowered to collect taxes in order to run the provincial administration. Giving his opinion regarding various taxes Mr. Sheri Dhirendra-Nath Dutta said that duty on income from agriculture, state tax on agricultural land, and taxes on buildings and land should be included in legislative list II. He did not end the suggestions here but also suggested that taxes on passenger vehicles on roads, taxes on passengers and their goods, taxes on the purchase and sale of other items (newspapers were an exception), taxes on boats and animals, and the like should also be included in the same list. Accordingly, if the above taxes were not given to the provinces, they would not be able to manage their financial affairs. It seems he suggested complete financial provincial autonomy (Pakistan C. A., Debates, XV 3-53, 1953).

On October 8, 1953, Mr. Sheri Dhirendra Nath Dutta opposed the establishment of the Upper House on the ground of its indirectly elected nature. He argued, "There is no necessity that the House of Units shall have equal powers because the "House of Units" shall be elected through indirect elections by the members of constituent Units" (Pakistan C. A.,

Debates, XV 3-53, 1953). Similarly, Prof. Raj Kumar Chakraverty criticised the equal powers of both houses of the legislature on the basis of indirect election of the upper house.

The reaction of East Pakistan's politicians revolved around the issue of power distribution, in which equal powers were granted to both houses of the legislature. It is astonishing to note that East Pakistan, having a larger population, demanded maximum provincial autonomy and felt threatened by the dominance of Punjab, a smaller unit among the different units of West Pakistan. Contrary to the perspectives of East Pakistan's political elite, the leaders of the Punjab opposed parity representation in the Upper House (Khan, 2017). The second draft met with criticism in both wings of Pakistan on different grounds. Meanwhile, the government of Khawaja Nazim Uddin was dismissed, and Muhammad Ali Bogra assumed the office of Prime Minister. He deliberated on the constitutional deadlock and made an effort to handle the question of lasting representation between East and West Pakistan in the federal parliament. He presented his formula to the Constituent Assembly of Pakistan on October 7, 1953. The formula is known as the Bogra Formula or the Muhammad Ali Formula. The Constituent Assembly adopted this formula on October 6, 1954.

The Bogra formula addressed issues of parity in representation and the election of the head of state. The formula provided compromised representation in both houses of the legislature for East and West Pakistan. Furthermore, the formula specifies that the "head of the state" and the "head of the government" should not belong to the same zone. It ensured practical parity in representation during a joint session of parliament (Riaz, 2002).

One glaring aspect that emerged in 1956 was the framing of a unicameral legislature (Constitution of Pakistan, 1956, Article 43), despite the fact that the interim report of the BPC had already suggested and debated the scope of a bicameral legislature. Two justifications behind the acceptance of a unicameral legislature seem quite relevant. First of all, under parity representation, a kind of consensus has emerged between East and West Pakistan. Secondly, with the imposition of martial law, the first constitution was abrogated. It seems that Ayub Khan considered the unicameral legislature a viable mechanism to manage issues pertaining to both wings of Pakistan. In order to prolong his rule, he did not like to reinitiate issues related to federal bicameralism (Khan, 2017).

During Ayub's regime, the National Assembly of Pakistan functioned as the supreme unicameral legislative body of the country. It consisted of only one house. It had one hundred and fifty-six members, constituted by the Electoral College. The formation of the unicameral legislature was a continuation of the pre-1958 period's circumstances. Ayub Khan avoided implementation of the bicameral system, although it was suggested by the Constitution Commission in 1960 (Constitution Commission Report, 1960) to get rid of the complexities of the bicameral system. The National Assembly under the Constitution of 1962 was formed in April 1962.

### **Figure: Division of Seats proposed by the constitution commission 1960**

The federal design of the government requires representation of multi-ethnic groups in the Upper House in order to make the political system participatory. The 1956 constitution did not incorporate recommendations from the BPC and Bogra Formula germane to the establishment of the Upper House. Having felt the need for the Upper House after the abrogation of the 1956 constitution, Ayub Khan directed the composition of a constitution commission to chalk out a scheme to design an Upper House or Senate in Pakistan. The Constitution Commission, under the chairmanship of Justice Shahab-Ud-Din, recommended the formation of the Senate with a strength of forty-eight members (Constitution Commission Report, 1960, p. 47). Twenty seats were allocated to each province in Pakistan. Members of the National Assembly from each province were to act as an electoral college in the selection of Senate members. However, the president proposed nominating eight senators (Khan, 2017). In this way, the Constitution Commission not only recommended the establishment of the Senate but also granted the president extra powers

regarding the nomination of eight senators (Constitution Commission Report, 1960, p. 47). Finally, the recommendations of the constitution commission were sidelined. The unicameral legislature functioned during Ayub's regime. The problem of representation faced by the constitution's designer reveals the prevalence of feelings based on fear and distrust among the inhabitants of East and West Pakistan.

### The Development of House of Federation from 1973 to Till Now

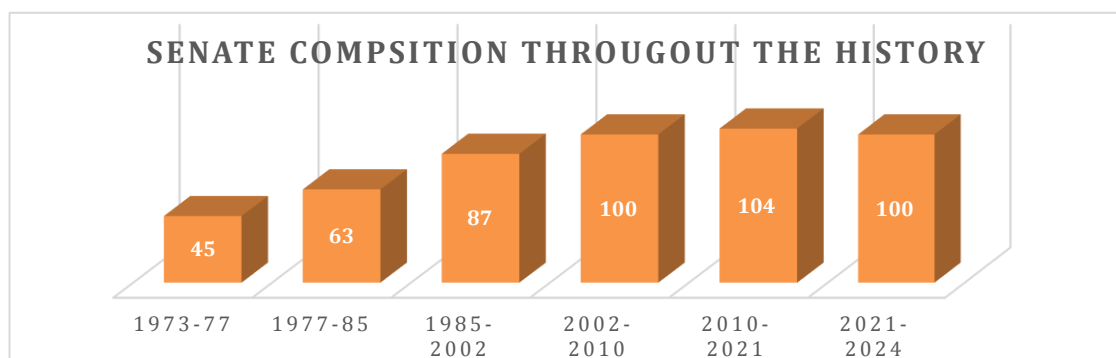
Since partition, the issue of equitable representation has remained a major hindrance to the smooth functioning of the Pakistani federation. East Pakistan developed strong apprehensions about West Pakistan's dominance of the organs of government. Before partition, the federal form of government was selected as a viable mechanism by the political elite of the "All India Muslim League" to ensure the rights of the Muslim minority. The first two constitutions of Pakistan could not regulate bicameralism. Thus, the issue of equitable representation remained unaddressed, and East Pakistan was separated in 1971 (Ahmad & Javed., 2017).

After the separation of East Pakistan, the mechanism of federal bicameralism was incorporated into the 1973 Constitution. Zulfikar Ali Bhutto realized the need for the Senate to accommodate all the federating units of Pakistan. Bhutto clarified the significance of bicameral legislative assemblies, stating that if Pakistan's constitution is made federal, which recognizes the country's geographical structure, diversity, and historical strength, then the federal legislative assembly must be bicameral (April 2, 1974, Senate debate). Zulfikar Ali Bhutto handed over responsibility to the famous legal expert, Mr. Hafeez Pir Zada, to draft the constitution of Pakistan.

At that time, Punjab had 58% of the total population of Pakistan. In order to address the grievances of smaller provinces and to balance the dominance of Punjab, the Senate was constituted under the formula of equal representation for the four federating units of Pakistan. The underlying rationale for constituting the Senate was to have a majority constraining federalism, equal representation to empower the Senate, protection of the interests of the federating units, and deliberative functions. By allowing equal representation to the constituent units in the upper house, the small units were granted a larger role in national affairs. The Senate started to act as a bulwark for the protection of the rights of smaller provinces. The Senate was constituted keeping in mind the principle of "continuity" (Ahmad & Javed., 2017).

In the electoral process, the principle of "proportional representation" by means of a single transferable vote (STV) has to be pursued to elect members of the Senate. The assemblies of the constituent units elect senators for their respective units. The right to elect senators for FATA and Islamabad (the Federal Capital) was given to the National Assembly of Pakistan. The Senate has its own chairman and deputy chairman (Khan, 2017).

Figure 1: Composition of Senate (1973-2024)



Source: website, Senate of Pakistan

The Senate had 45 members in the original 1973 constitution (Hussain, 2020). In 1977, the number of seats in the Senate was increased from forty-five to sixty-three (Constitution of the Islamic Republic of Pakistan, 1973, Article 59). Fourteen members had to be elected from each province; five members had to represent FATA, and two members were to belong to the federal capital (Ahmed, 2013). If a comparative analysis of the 1973 constitution is done with the BPC report and the Bogra formula, two issues take on paramount significance. The first issue is the provision of strong bicameralism by the Constitution of 1973, in which all the provinces were granted equal representation irrespective of their size and population. The second issue is not the provision of equal legislative and political powers as suggested by the BPC report and Bogra formula.

According to the 1973 constitution, the Senate of Pakistan does not have the power to elect the prime minister and his cabinet. Similarly, only the National Assembly has the power to vote for confidence or no confidence in the prime minister. Most of the members of the Prime Minister's Cabinet would be drawn from the National Assembly, but up to a quarter of the Cabinet could be drawn from the Senate of Pakistan, and the Prime Minister's Cabinet was accountable only to the National Assembly (Rid, 2019).

As far as legislative powers are concerned, bills could not be introduced by the Senate except for limited purposes on the legislative list. Only the federal legislature could legislate on the ten subjects in the second part of the list from the House of the Senate of Pakistan. Further, the above-mentioned constitution provided the National Assembly with encroachment powers with respect to financial bills. In the context of Article 73 of the Constitution of 1973, it is clear that any financial bill can be introduced only in the National Assembly, and in case of approval in the National Assembly, it can be submitted to the President of Pakistan for approval without sending it to the Senate of Pakistan (Article 73, Constitution of Pakistan).

A very important aspect regarding the evolution of the House of Federation is that the military chiefs in Pakistan have played important roles in the role of the House many times. When President of Pakistan General Zia-ul-Haq made the eighth constitutional amendment to the Constitution of Pakistan, he increased the number of members of the Upper House. General Pervez Musharraf, as the Chief Executive of Pakistan in 2002, increased the number of members of the Senate through a Legal Framework Order (Chief Executive Order 24, August 21, 2002). Some were distributed in such a way that each province got 14 general seats and each province got 4 seats in the category of scholars and professional members. Four seats were reserved for women in each province, and four seats were reserved for the capital of Pakistan. Eight seats were reserved for Islamabad and FATA. In 2010, the Eighteenth Constitutional Amendment to the 1973 Constitution was the first practical step towards making the Upper House of Pakistan a House of Federation in the true sense. Furthermore, in the Eighteenth Constitutional Amendment, the number of members of the Upper House of Pakistan was increased from one hundred to 104 (Constitution of the Islamic Republic of Pakistan, 1973, Article 59). In 2018, the thirty-first constitutional amendment made FATA part of the Khyber Pakhtunkhwa province of Pakistan (31<sup>st</sup> Constitutional Amendment to the Constitution of Pakistan, 2018). Thus, the FATA seats have been eliminated, but the members of the upper house who were already elected will now retire after completing their respective terms. Four members of FATA retired in the 2021 Senate elections, while the remaining four members will retire by the 2024 elections. Consequently, the number of members of the upper house will be reduced to ninety-six in 2024 (Senate of Pakistan Website, 2022).

Before the 18<sup>th</sup> Amendment, the National Assembly enjoyed unparalleled powers in legislation and executive power. The role of the Senate remained unchanged (Ahmad & Javed., 2017). During the early debates on constitution-making in the 1970s, the issue of

Senate empowerment remained unresolved. A member of the popular house of Pakistan's parliament raised a question in 1973 regarding the powers of the Senate of Pakistan. He questioned in some way whether the upper house of Pakistan was being given powers on financial matters or matters related to taxation. This member emphasized that the Senate should have the aforesaid powers in every case (National Assembly Debates, March 2, 1973).

Similarly, the parliamentarians belonging to small provinces were more vocal on the issue of assigning powers to the Senate. One notable statement in this context came from Mr. Abdul Wali Khan. He asserted: "The main purpose of forming the House of Federation is to give equal representation to all the federating units and adequate representation to other territories of Pakistan." It is also the objective to establish this house so that the representatives of all the federating units can protect or safeguard their respective regional interests. In order to achieve these objectives, the upper house will now have to ensure it has adequate powers. And obviously, if the upper house is not empowered, this house will not be able to help us solve the problems of diversity and representation at all. Emphasizing on ensuring that powers are given, Wali Khan says that without powers, the Senate of Pakistan can be called "a debating society, an advisory board, or any other such name" (National Assembly Debates, March 2, 1973).

The 18th Amendment empowered the House of Representatives in the areas of legislation and administration/executive power. The 18th Amendment held the Prime Minister and his cabinet accountable in front of the Senate (Constitution of Pakistan, 1973, Article 91). The senators were authorized to ask questions directly to the ministers on administrative issues. In this way, the Senate started to enjoy the authority of scrutiny and oversight.

During the parliamentary year 2015-16, the senators asked one thousand two hundred and thirty questions. Asking questions illustrates the strengthened role of the House of Federation (Mushtaq, 2017). The eighteenth amendment also empowered the Senate in terms of giving equal membership in the parliamentary committees that are to appoint judges and chiefs of election commissions (Constitution of Pakistan, 1973, Article 175A). Earlier, the Council of Common Interests had to submit reports only to the National Assembly. Now it has to put reports before the Houses of the Federation. Equally, the National Finance Commission is now equally responsible for both houses of the federation. The Senate has representation in the Public Accounts Committee (Mushtaq, 2017). One significant aspect regarding the parliamentary committee is that it falls under Article 175 A, under the 18<sup>th</sup> Amendment. Article 175 A stipulates that four senators will be part of the parliamentary committee that executes the selection of judges for the "Supreme Court" and "High Courts." It also states that if the National Assembly is dissolved, all eight members of the parliamentary committee will be senators. Furthermore, the President cannot promulgate an ordinance when the Senate is in session. So far as the time frame for money bills is concerned in the upper house, the duration has been increased from seven to fourteen days (Rid, 2019).

Another outstanding function granted by the eighteenth amendment to the House of Federation is declaring the Upper House or Senate as "The House of Federation." This term has never been used in the context of the constitutional development of Pakistan. Moreover, the house of federation has been empowered under rule 172B, in which the house of federation would act as a "committee of the whole" (Constitution of Pakistan, 1973, Article 172B). The committee as a whole is empowered to refer to the attendance of any member of the House, to summon any member, or to call for the records and documents of a division, department, autonomous body, or semi-autonomous body to be inspected (Senate of Pakistan Rule & Procedures, 2012).

Practical measures were taken by the ex-chairman of the Senate, Mr. Raz Rabbani, who successfully initiated inter-institutional dialogue between the executive and the



parliament. On two important occasions, he converted the Senate into a committee of the whole. On one occasion, Chief Justice of Pakistan Anwar Zaheer Jamali appeared before the Senate on November 5, 2015. The Chief Justice of Pakistan interrogated the committee of the whole/the Senate about the issues related to the clearing of the backlog in courts. On another occasion, the chief of army staff, General Qamar Javed Bajwa, appeared before the whole of the committee on December 19, 2017. General Qamar Javed Bajwa briefed the committee as a whole in detail on the national security situation in Pakistan. Although these two events have not brought drastic changes to the prevailing situation in Pakistan, they have enhanced the symbolic worth of the supremacy of the parliament in Pakistan (Rid, 2019). Besides these powers, the number of working days has been increased from 90 to 110 days (Role & Powers of the Senate, 2016). Lastly, the Senate has obtained  $\frac{1}{4}$  of the membership in the cabinet, provided that the Prime Minister has the willingness to choose a member of his cabinet from the Senate.

The aforementioned paragraphs have clearly delineated the development of the House of Federation in Pakistan, in which the powers granted by the Eighteenth Amendment remain unprecedented in the constitutional history of Pakistan. Parallel to this glaring picture, a bleak side remains to be explored. In actuality, the parliamentary nature of the Pakistani federation has not provided equal powers to the two houses of the federation. The issue of equal powers for both houses of the federation was raised by the First Chairman of the Senate, Mr. Habibullah Khan. Highlighting the role of the Upper House, Mr. Habibullah expressed his views as follows: The Senate of Pakistan ensures full participation of all provinces in national-level affairs. Similarly, the Upper House also plays an important role in creating a fair balance between the three pillars of government and plays a very positive role in promoting national interests and developing parliamentary democracy (Senate of Pakistan Debates, April 2, 1974). As the former Senate chairman saw it, the upper house's role as a source of national unity and protector of national interests. Comparing the powers of Pakistan's Senate to those of the world's other second chambers, Mr. Muhammad Hashim Gilzai argued that, in the same way that the world's bicameral legislatures give equal powers to both houses, we should do the same in the future. Senate of Pakistan should have the same powers as the National Assembly currently has (National Assembly Debates, 1974).

In the Pakistani case, the members of the house of the federations are elected by the provincial and national legislatures. Furthermore, the principle of relative party discipline undermines the territorial functions of the House of Federation. A brief overview of the history of the Senate demonstrates that party rather than territory remains the dominant trend of representation in the house of federation (Mushtaq, 2017). Regarding party discipline, Mr. Swenden, a well-known scholar, expresses his opinion that "party discipline can spill over to the second chamber of parliament. Especially when the same political parties are represented in both houses of parliament. And so when some members from other houses are invited to join the cabinet, (Swenden, 2004).

In fact, the Senate election is held on the basis of a single transferable vote under the pattern of proportional representation. Every constituent unit elects equal members for the second chamber on the basis of proportional representation. Indirect election through proportional representation results in inaccurate representation of all Pakistani territories. Besides that, each political party takes a share in the second chamber on the basis of its strength in provincial legislatures. This practice was carried out during the eras of Benazir Bhutto and Nawaz Sharif (Syed, 2007). The political chiefs of political parties manipulate the election of the second chamber. Horse trading has been a serious dilemma for the Upper House of Pakistan. Because of the aforementioned curses, the senators of Pakistan do not represent geographical constituencies. Qamar Zaman Shah highlighted the importance of the Senate very well. He said truthfully that if the Senate had been made in Pakistan from the time of its creation, Pakistan would have been saved from many issues and there would not have been many misfortunes. However, if it has become a Senate, let it be made useful (Senate Debates, April 2, 1974).

## Conclusion

The development of the House of the Federation of Pakistan consists of some important phases and outlooks. The first phase indicates the problem faced during the period from 1947 to 1973. Despite the efforts of the political leadership in Pakistan and their insistence on having a bicameral legislative assembly in all constitutional proposals, both reports of the "Basic Principles Committee" proposed a bicameral legislative assembly. The creation of a bicameral legislative assembly was also emphasized by Muhammad Ali Bogra and the 1960 Constitutional Commission. But in Pakistan, both the 1956 and 1962 constitutions provided for a unicameral legislative assembly. Hence, from 1947 to 1973, Pakistan failed to fulfil a basic need by establishing a bicameral legislature. Political experts and the leadership of West Pakistan also considered this failure to be the reason for the breakup of Pakistan.

The second and most consequential phase in the evolution of the House of Federation has been from 1973 until now. After suffering a great loss, Pakistan finally opted for a bicameral legislative assembly in its 1973 constitution to provide equal representation to the provinces and adequate representation to the rest of the territories. Under General Zia ul-Haq and General Pervez Musharraf's Legal Framework Order and then through the eighteenth constitutional amendment, the seats in the upper house were increased. Before the eighteenth constitutional amendment, compared to the National Assembly, the powers of the Senate of Pakistan were much less in terms of executive accountability and legislation. The eighteenth constitutional amendment of Pakistan empowered the House of Federation in 2010. It can be noted without any hesitation that, to some extent, the Senate of Pakistan has literally become the house of federation since the eighteenth amendment. Still, the Senate of Pakistan is facing many problems, such as regional representation, a lack of powers, and limited accountability of executives, that need to be addressed by the Senate of Pakistan.

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