

**Role and Functioning of the Senate of Pakistan:
A Historical Perspective (2012-2018)**



By

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Declaration

I hereby declare that this thesis is the result of individual research, and that it has not been submitted concurrently to any other university for any other degree.

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February, 2024

**Approval
For Submission of Thesis**

We hereby recommend that dissertation written by Dilawar Hussain, titled “Role and Functioning of the Senate of Pakistan: A Historical Perspective (2012-2018)”, be accepted for submission in partial fulfilment of the requirements for the degree of the Doctor of Philosophy in History.

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Abstract

This study explores the constitutional role, embedded in the Constitution, of the Senate of Pakistan as a chamber of provinces and appraises its legislative and non-legislative policy work it performed as a federal second chamber in the years between 2012 and 2018. The Senate lies in the heart of the federal parliament where it not only oversees the policies of the federal government but also complements the National Assembly in legislative deliberations and policy debates. The primary constitutional role of the Senate is to advance the concerns of the provinces at federal level. Yet its territorial role as a chamber of provinces is relatively less understood. A very few research studies rendered on the subject do little mention of the legislative and non-legislative policy work of the Senate. This study not only explores the constitutional role of the Senate but also appraises its manifestation in the legislative business transacted during the period in focus. The study employs an exploratory-analytical approach, along with blend of qualitative and quantitative methods.

The Constitution Pakistan, 1973 introduced a bicameral federal parliament where the National Assembly represents the principle of population, whereas the Senate represents the principle of territory. The population based representation of the provinces is provided in the Assembly whereas the Senate provides equal regional representation to all provinces irrespective of their demographic size. The Assembly is elected directly on the principle of one person one vote, whereas the senators are elected indirectly by the Provincial Assemblies. The Senate enjoys co-equal legislative powers with that of the Assembly except for the financial powers that rest with the latter only.

For assessing the extent of the effectiveness with which the Senate performs its role as a federal second chamber, it is necessary to understand the broader institutional environment in which it operates. The present study argues that the predominance of the Assembly in the parliamentary procedures combined with the majoritarian parliamentary regime type undermines and substantially influences the performance of the senators as the representatives of the provinces. Based on evidences, the study infers that amongst other impeding factors, it is party discipline that played an adverse role in affecting the legislative behavior of the senators during the period under study. Predictions aside, it is hoped that the present study will generate a debate on varied aspects of the contemporary Senate. It may be of help to parliamentarians, political parties, voluntary organizations and the general public alike.

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Dedications

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ever felt me and hold my head up high
whenever things look bleak to me...
no matter what.

List of Abbreviations

ANP	Awami National Party
BNP-A	Balochistan National Party-Awami
BNP-M	Balochistan National Party-Mengal
CCI	Council of Common Interests
CPEC	China-Pakistan Economic Corridor
ECP	Election Commission of Pakistan
FATA	Federally Administrated Tribal Areas
FCR	Frontier Crimes Regulations
FAFEN	Free and Fair Election Network
ICT	Islamabad Capital Territory
IND	Independents
JI	Jammat-i-Islami
JUI-F	Jamiat Ulema-i-Islam-Fazal ur Rehman
JUI-P	Jamiat Ulema-i-Islam-Pakistan
JWP	Jamhoori Wattan Party
KP	Khyber Pakhtunkhwa
MNA	Member National Assembly
MP	Member of Parliament
MPA	Member Provincial Assembly
MSP	Member Scottish Parliament
MMA	Muttahida Majlis-e-Amal
MQM-Pakistan	Muttahida Quami-Movement-Pakistan
NAP	National Action Plan
NAP	National Awami Party
NEC	National Economic Council
NFC	National Finance Commission
NP	National Party
NWFP	North West Frontier Province
NA	National Assembly
PA	Provincial Assembly
PAC	Public Accounts Committee
PEMRA	Pakistan Electronic Media Authority
PIPS	Pakistan Institute for Parliamentary Services
Pk-MAP	Pakhtunkhwa Milli Awami Party
PML	Pakistan Muslim League
PNP-A	Pakistan National Party-Awami
PML-F	Pakistan Muslim League Functional
PML-N	Pakistan Muslim League-Nawaz

PML-Q	Pakistan Muslim League-Quaid-i-Azam
PPP-Sherpao	Pakistan Peoples Party- Sherpao
PPP	Pakistan Peoples Party
PPP-P	Pakistan Peoples Party Parliamentarian
PTI	Pakistan Tehrek-e-Insaf
PILDAT	Pakistan Institute of Legislative Development and Transparency
UDF	United Democratic Front

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Introduction

1. Introduction to the Problem

The Senate of Pakistan was created as a chamber of provinces in 1973, the twenty-sixth independence anniversary of Pakistan. The Constitution of 1973, provided a federal parliamentary system that typifies Britain's model of parliamentarianism. The Constitution-makers realized a long-awaited need of introducing a second federal chamber where the ethno-territorially different regions could be represented equally in the central government. The creation of the Senate of Pakistan as a second legislative chamber of bicameral federal parliament, laying in the very heart of the federal government of Pakistan, was an important institutional innovation in the Constitution of 1973. The Article 50 of the Constitution of 1973 describes the structure of federal parliament where president represents the unity of the republic; the National Assembly reflects proportional representation of federating units based on size of their population whereas the Senate represents the federating units equally in federal parliament or the federal government.

The Senate of Pakistan is provided coequal legislative powers, except for money bills, with that of the National Assembly. It can veto the bills seeking an amendment to the federal constitution. The Eighteenth Constitutional Amendment of 2010 combined with the renewal of the Senate's *Rules of Procedure and Conduct of Business in the Senate* in 2012 has extended oversight and executive roles of the Senate of Pakistan as a federal second chamber. The Senate shares the executive powers of (dis)approving the appointments of the judges of the higher court, the Supreme Court, and the Chief Election Commissioner. The role of the Senate as an overseer

of the federal government policies has also been increased. As the federal government is made accountable to both houses of the parliament, the senators are provided with an oversight tool of asking questions from the minister concerned and the Prime Minister of Pakistan. The minister concerned are made bound to be present to answer the questions of the senators. The ministry concerned is bound to implement the recommendations of the Senate and report the same to it. The senators are made part of PAC, a committee to oversee federal expenditures. The days for making recommendations on federal budget are increased earlier seven to fourteen days so that senators could deliberate in details on federal budget. Likewise, a number of federal agencies such as the CCI, a quasi-executive constitutional body to resolve the administrative and economic conflicts between federation and provinces, the Auditor General of Pakistan, a federal body to audit the expenditures of federal ministries, are bound to lay their annual reports before the Senate. The policy scope of the Senate is also increased with the introduction of a new committee, the Committee of the Whole, a full house committee to make policy recommendations to federal government on the matters of national importance.

The role of the Senate is to hold to account federal government on its legislative and non-legislative policy processes. It also performs some subsidiary functions that include making recommendations on federal budget. It regulates public money, and redresses the grievances of its constituents, the provinces. However, its primary institutional role is to provide an equal regional representation to all the provinces in federal parliament or the government. Its institutional role as a territorial chamber is to advance the concerns of the provinces at federal level and provide a linkage between the two levels of governments, the provincial and the federal.

The Constitution-makers of Pakistan adopted an adapted American bicameral federal model of Congress where the House represents the principle of population whereas the Senate, as a territorial chamber, represents the principle of territory. The former give representation to the regions bases on their population whereas the latter provides equal regional representation to all regions. They tried to diffuse the political disparity existed between the larger province, the Punjab, and the less populous provinces (Sind, Baluchistan and the N.W.F.P.) of Pakistan through equal regional representation in the Senate. Historically, the Senate of Pakistan has witnessed many changes in its composition what has remained paramount and unchanged is its territorial role of representing regions or provinces equally to safeguard the economic and political interests of the its constituents, the provinces, at federal level.

2. The Problem Statement

Apparently, the popular orientation of the Senate, for those who recognise it as a political institution, is its role of representing the federating units equally in the federal parliament. However, its practical working seems more complex and surprises many what they found its role in theory. Several changes into its composition, renewal of its *Rules of Business* and a substantial increase in its institutional role as an overseer of federal government's policies in the Eighteenth Constitutional Amendment has expanded its constitutional and institutional role as a representative of the provinces.

Obstacles apart, the senators by questioning ministers, amending government legislation, debating government policies and participating in committees' work have largely influenced the legislative and non-legislative policy process of the federal government during the years between

2012 and 2018, focus of the present study. Given the expanded role of the Senate in the Eighteenth Amendment, it deserves a detailed scrutiny to assess the extent of its (in)consistency in performing its constitutional role of advancing the interests of provinces. The territorial role of the Senate and its manifestation in the actual working of the Senate is little known to the general public and a few academics have troubled to study its role as a territorial federal chamber. The Senate known constantly as a less democratically legitimate chamber, because of indirect election method, and lesser in powers with that of the Assembly has remained little understood political institution which lies in the very heart of the federal government. The empirical evidence of appraising its actual role in influencing the federal government's policies is also overlooked by those who has produced a bit on the subject. The present study has systemically understood the constitutional role of the Senate as a territorial chamber and appraised empirically its actual working in advancing the concerns of the provinces, within the power dynamics of federal parliamentary governance system of the Pakistan.

3. Key Questioned to be Addressed

The present study primarily focuses on the territorial role of the Senate in the parliament of Pakistan. Given the dearth of empirical and systematic studies on its territorial role, the present study offers answers to several related questions. It has explored the institutional rationale of the Senate and appraised the post-Eighteen Amendment institutional performance of the Senate as a chamber of provinces. It answers a most basic question that what kind of constitutional role the Constitution-makers conceived in 1973 and to what extent the senators have been successful in performing that constitutional role of representing the regional interests by making use of

parliamentary tools available to them during the years between 2012 and 2018. While answering this primary question, the study considers some subsidiary questions related to the working of the Senate as a federal second chamber. Amongst many others, the study broadly has answered the following important questions:

1. In theory, what type of institutional design of the Senate as a chamber of provinces the Constitution-makers conceived in 1973?
2. How and to what extent, the Eighteenth Constitutional Amendment of 2010, has extended the institutional role of the Senate as a federal second chamber?
3. Does the Senate is clothed with the sufficient constitutional powers to perform its territorial role of advancing the concerns of the provinces effectively? And, what is the extent to which it is (un)equal in its constitutional powers with that of the National Assembly?
4. In what ways it is compositionally distinctive from that of the Assembly?
5. What political impacts the contemporary Senate does have on the legislative and non-legislative policy work of the federal government?
6. What are the factors that prevent or encourage the senators to perform their role in consistent with their constitutional mandate?

The study has also drawn conclusions from some overseas territorial second chambers that can be useful for the future prospects of the Senate of Pakistan as a federal territorial chamber.

4. Scope of the Study

In temporal terms, the present study briefly overviews the constitutional debates setting the context for the institutional rationale and constitutional role of the Senate of Pakistan as a territorial chamber. The study primarily appraises the performance of senators as the representatives of the provinces at federal level by appraising their active participation in the legislative and non-legislative policy work of the federal government between the years 2012 and 2018. The period under study is unique to be studied as the Eighteenth Constitutional restructured the institutional role of the Senate as territorial chamber in advancing the political, fiscal and administrative interests of the provinces. The second important change in the institutional role of the Senate was achieved through the renewal of the *Rules of Procedure in the Senate* in 2012 that expanded its executive and oversight role within the federal parliament. The third interesting fact about this time period is a political incongruence in the composition of the federal parliament as the PML-N was in majority in the Assembly as well as in government whereas the PPP-P was in majority in the Senate. Such incongruence in the political composition of the federal parliament provides a unique framework to analyze the extent to which the senators utilised such political incongruence between the two houses to hold the government to accounts on its policies.

In spatial terms, the study goes back to the background to explore the debates on the nature and the role of the second legislative chambers in federal-parliamentary political systems of the world. It, however, mainly explores the significant historical trajectories that explain different models of a federal second chamber suggested in the pre-1973 constitutional arrangements. It also discusses the impeding factors that prevented the constitution-makers to

create a federal territorial chamber in two Constitutions (1956 and 1962). Finally, it explains the rationale for and constitutional role of the Senate as a chamber of provinces.

The structural scope of the study appraises performance of the senators at two levels. Horizontally, it assesses the extent of using constitutional powers by the senators to influence the legislative and non-legislative policy work of federal government. Vertically, it appraises the performance of the senators in advancing the political, fiscal and administrative interests of their constituents, the provinces.

5. Significance of the Study

The present study is significant both in conceptual and practical terms. Theoretically, it explains the rationale for creating federal second chambers as the representatives of the provinces. Empirically, it offers a new perspective on the Senate of Pakistan as a federal second chamber that provides equal regional representation to all provinces. Taking into account the Senate as a unit of analysis, it not only locates its constitutional role but also provides an empirical evidence of its actual working as a representative of provinces at federal level. By explaining the institutional design of the Senate and evaluation of its actual working, the study provides a conceptual framework to study a political institution in a broader institutional environment. Given the dearth of systematic studies on the political institutions of Pakistan, it offers useful answers to those questions that the researchers most often ask regarding the constitutional role and actual working of the federal parliament of Pakistan.

6. Review of Literature

Like any systematic study, the present study is built on the prior works rendered on the subject. There exists a dearth of scholarly works on the Senate of Pakistan with respect to its constitutional role and actual working as a federal second chamber. Though a dearth of scholarly works on the Senate is produced, there are few studies that can help understand the subject. The literature studying the Senate as a political institution can broadly be divided into two categories: firstly, the works that mention it indirectly or partly as an upper house of bicameral-federal parliament of Pakistan; secondly, the studies that have exclusively discussed the Senate and its dimensions by changing the unit of analysis in one way or the other.

Section I Literature on the Parliament of Pakistan

There is a fair deal of academic works which have studied the Parliament of Pakistan. These works have partly mentioned the Senate as a second legislative chamber of the federal-bicameral parliament. The studies partly discussing the parliament of Pakistan can further be divided into five categories: firstly, the works dealing with the constitutional history of Pakistan that describe its structure and constitutional role;¹ secondly, the works dealing with the functioning of the federalism that discuss its constitutional role as a federal-political institution;² thirdly, the works

¹ The studies mentioning the constitutional framework of the federal parliament include: Burks (1954); Choudhury (1955, 1956, 1959 and 1974); Jennings (1957); Newman (1962); Singhal (1962); Wheeler (1962 and 1963); Braibanti (1964); Sayeed (1964); Bhambhari (1965); Misra (1967); Feldman (1973); Ahmad (1978); Mahmood (1984 and 2000); Maluka (1995); Sheikh (2008); Rabbani (2003) and Khan (2017).

² The works explaining the role of parliament in administrative and fiscal federalism include: Baxter (1974); Ahmad (1990); Qureshi (1991); Ali (1996); Shah (1997); Kundi (2002); He (2006); Nazir (2008) Amjad (2010); Khan (2010); Waseem (2010); Khalid (2012); Faiz (2015); Khan (2015); Rabbani (2016); Khan (2017); and Javaid (2018).

dealing with the political history of Pakistan explain its parliamentary phases;³ fourthly, a group of scholars have explained factors that impeded the independent functioning of the parliament as a political institution;⁴ and, lastly, literature on the subject is the works of the academics who have partly studied or exclusively studied it as a political institution in one way or the other.⁵

Amongst the studies mentioning the structure of the parliament of Pakistan, Callard's book titled *Pakistan: A Political Study* (1957) focuses on the first decade of the political history. It narrates the story of political institutions building (the composition and contributions of first (1947-1954) and second (1955-1958) Constituent Assemblies and the federal-parliamentary structure of the parliament established in the Constitution of 1956. The *Government and Politics in Pakistan* (1970) by Ahmad discusses pre-1956 Constitution structure of central government and post-1956 Constitution federal-parliamentary structure of the government combined with a unicameral federal parliament.

Ahmad in his book titled *Legislatures in Pakistan, 1947-1958* (1960) has exclusively worked on the parliament in which he discusses the structure and functioning of the legislatures during the period in focus. Hussain's work *The Parliament of Pakistan* (2019), is an exclusive and the most recent academic work on the subject. The book primarily studies the working of the

³ The studies focusing on the political perspective includes: Collard (1957); Stephen (1963); Wheeler (1970); Ziring (1970, 1975 and 1997); Ayesha (1971 and 1995); Rizvi (1976); Muhammad (1980); Baxter (1985); Waseem (1989); Rais (1989); Anthony (1997); Talbot (1999); Afzal (2001) and Khan (2017).

⁴ On this question why the parliament has been unable to become a strong overseer and representative of the people of the country, there are broadly three positions of the scholars: one group of scholars (Jalal (1990), Alvi (1990), Rizvi (2000), Haqqani (2005), Saddiqa (2007), Aziz (2008) and Shuja (2008) hold army responsible for this weakness; the second group (Sayeed (1966), Ahmed (1968), Kennedy (1987), Naz (1990) and Niaz (2010) considers over-dependency on the civil bureaucracy and an alliance between the bureaucracy and the Executive branch reason behind the weakness of the Parliament; and, the third group of scholars (Lodhi (1978) ; Ziring (1980) and Kureja (1991) is of the view that it is Parliament itself that has been responsible for the general decay of the political institutionalization in the country. Quoted in Mahboob Hussain, *The Parliament of Pakistan: A History of Institution-Building and (Un)Democratic Practices, 1973-1977* (Karachi: Oxford University Press, 2019), 7-10.

⁵ The scholars mentioning partly includes Callard, 1957 and Ahmad, 1970 whereas Ahmad 1960, Afzal 1997, Hussain 2019, and Ahmad 2022 have exclusively studied it as a political institution in one way or the other.

federal parliament with focus on the National Assembly during 1970s. The author answers the questions how the parliament evolved as a political institution and how did the first directly elected parliament function during the years between 1971 and 1977. He argues that the then Prime Minister Zulfikar Ali Bhutto's authoritarian attitude and the way he engineered the Constitution of Pakistan, 1973 wielded the power to the office of the prime minister. Doing so, the supremacy of parliament was undermined which partly failed to exercise its powers in consistent with its constitutional role. The author also explains view of the parliament as a political institution to not only exert its institutional supremacy but also to oversee the policies of the then federal government. The study focuses primarily on the functioning of the National Assembly, the first chamber, of parliament in the years between the years 1971 and 1977 only. Therefore, it devotes very little space to the functioning of the Senate, the other half of the parliament, during the period under study. Another recent work, *Parliaments in South Asia* (2022) of Ahmad is a comparative study of the powers and performance of the parliaments. Ahmad argues that though the parliament of Pakistan shares its institutional history with its Indian counterpart, the former has failed to exercise its power in consistent with its constitutional role because of the inter-institutional and intra-institutional imbalance in power structures. The studies mentioned above explore institutional origins and structural dimensions of the federal parliament of Pakistan. Undoubtedly, they have unfolded the varied aspects of the subject; they have little mention of the Senate of Pakistan as a territorial chamber.

Section II Literature on the Senate of Pakistan

There is a fair deal of studies focusing exclusively on the Senate of Pakistan. These studies describe the institutional structure of and political reason behind the establishment of the Senate. The literature available on the subject can broadly be divided into two categories: firstly, research articles rendered by the academics that discuss the Senate by focusing on its one dimension or the other; secondly, the works rendered by the senators who provides an insider view on the subject.

1. Scholarly Works

A good deal of research articles discusses the varied dimensions the Senate ranging from its role in the Pakistani federation, issue of women representation, to description of its expanded institutional role in post-Eighteenth Constitutional Amendment. The research articles on the subject are categorized on the basis of the themes they explain in a chronological order.

a. On the Role of the Senate in Bicameral-Federalism in Pakistan

Azhar Ali explores the factors the prevented Constitution-makers to establish a bicameral-federal legislature in his article “Unicameralism in United Pakistan: Why and How” (1955). The focus of the study is on pre-1973 constitutional debates on the creation of a federal second chamber in Pakistan. Haqqani’s *Pakistan: Between Mosque and Military* (2005) explains in its chapter “Old and New Pakistan,” the factors that led to the introduction of a bicameral federal parliament where the Senate was to manage a political disparity amongst the larger and smaller provinces. Hussain also explores the origin and evolution of unicameral parliament of Pakistan and changes

brought into its powers and structure in his article “Institution of Parliament in Pakistan: Evolution and Building Process (1947-1970)” (2011). A little mention of the introduction of the Senate of a bicameral-federal parliament is also found in another Hussain’s article “First Direct-Elected National Assembly of Pakistan-Election and Formation” (2012).

Khan explains the bicameral structure of federal parliament in her article “Bicameralism in a Federation: An Historical Analysis of Role of Senate in Promoting Federalism in Pakistan” (2017) in a historical perspective. It describes a correlation between the federalism and bicameralism by focusing on the nature of federalism in Pakistan in a historical perspective. It is a description of the Senate’s role in promoting federalism. This article, however, does not provide empirical evidence of Senate’s the effectiveness with which the it performs its role in promoting federalism. Mushtaq argues in “Empowering Ethno-regional Minorities and the Federal Bicameralism: Examining the Role of Senate in Pakistan” (2017) that the Senate empowers the ethno-linguistic minority groups to raise their voices within the federal-parliamentary government system. While partly examining the extent of use of constitutional powers by the senators, he concludes that the senators belonging to smaller provinces have been more active in its legislative business as compare to those who belonged to larger province-the Punjab. Another article “Territorial Role of Second Chamber in Parliamentary Federations: Evidence from Pakistan” (2018) co-authored by Mushtaq and Khan focuses on the debate on the pro-provincial autonomy legislation in the Senate. By examining the debates of the parliamentarians on the introduction of the Eighteenth Constitutional Amendment, the authors argue that the pre-dominance of the National Assembly has undermined the constitutional mandate of the Senate. The focus of the study is on the Senate’s role in legislation regarding provincial autonomy only; it fails to mentions other two functions, the representative and the

oversight, of the Senate of Pakistan. The article “Evolution of Federalism in Pakistan: A Constitutional Study” (2022) co-authored by Munawar and Mushtaq explores the history of federalism in Pakistan where they mention the enhanced role of the Senate in post-Eighteenth Constitutional Amendment with respect to fiscal federalism in Pakistan. The article mentions the Senate in terms of its supervisory role in the functioning of the CCI only.

b. On the Eighteenth Constitutional Amendment

A group of scholars has compared the powers and role of the Senate before and after the introduction of the Eighteenth Constitutional Amendment of 2010. An article “Eighteenth Amendment in the Constitution of Pakistan: Success and Controversies” (2012) co-authored by Hussain and Kokab partly mentions the changes the Senate underwent under the new constitutional scheme. A research article “Role and Significance of Senate in the Federation of Pakistan: An Analysis Before and After 18th Amendment to the Constitution of 1973” (2017) by Javaid and Ahmed describes changes brought into the constitutional role of the Senate after the introduction of the Amendment. It is a narration of the Amendment in term of changes it brought into the federal formula without analyzing the effectiveness and extent of the use of this expanded institutional role of the Senate by its members. Similarly, Rid’s article “The Emergence and Evolution of Upper House (the Senate) in Pakistani Federalism (1947 to the 18th Amendment 2010 and afterwards)” (2019) explains the evolution of constitutional role of the Senate in pre- and post-Eighteenth Amendment bicameral-federalism in a historical perspective. Since the focus of the study is constitutional debates explaining the history of the Senate as a federal institution till 2010, it does not appraise the effectiveness of the Senate during the period under study. Riaz and et.al. have also adopted a comparative approach in studying the

constitutional role of the Senate in pre- and post-Eighteenth Amendment constitutional framework in their article “Role of Senate in Federalism: An Evidence from Pakistan in the Post 18th Amendment Scenario” (2021). They all describe the expanded institutional role of the Senate in post-Eighteenth Amendment constitutional arrangement. However, these studies do not explain the extent of the use of these powers by the senators and its impacts on the performance of the Senate of Pakistan as a territorial chamber.

c. Relationship of the Senate with Other State Institutions

Hussain’s article “Parliament in Pakistan 1971-77 and Chief Executive: An Analysis of Institutional Autonomy” (2013) describes the dominance of the executive over the working and the functioning of the both houses, the National Assembly and the Senate, under the Zulfikar Ali Bhutto’s regime during the years between 1971 and 1977. Hussain has co-authored another article with Kokab “Institutional Influence in Pakistan: Bureaucracy, Cabinet and Parliament” (2013) that discusses the working relationship between the state institution i.e., the bureaucracy, the executive branch and the parliament. This article covers the years between 1947 and the 1977. Similarly, Hussain explains the working relationship between the parliament and bureaucracy in his article “Power Dynamics of State Institutions in Pakistan, Discourse Analysis of Bureaucracy and the Legislature (1971-1977)” (2015). He discusses the constitutional structure where the executive dominates over the parliament and argues that the former uses civil-military bureaucracy to undermine the institutional supremacy of the latter. The author partly mentions the working of the Senate as a second chamber of the parliament. However, the scope of the study is restricted to years between 1971 and 1977 only. He also refers briefly to

the functioning of the first Senate and its role in resolution of national issues of the time in an article “Resolution of National Issues: An Assessment of First Pakistani Parliament’s Durability” (2018).

d. On Women Representation in the Senate

Bari appraises the role performed by the women parliamentarians as the member of the National Assembly or of the Senate in *Role and Performance of Pakistani Women Parliamentarians, 2002-2007* (2009). Similarly, Tabassum and et.al. have authored “Women Representation in the Senate of Pakistan” (2015) that is a statistical study providing an overview of gap between the male and female representation in the Senate. It explains the patterns of and challenges to the women representation in the Senate of Pakistan. It partly covers the period under study; however, it does not mention the role performed by the females as the members of the Senate. Similarly, Khan and Naqvi’s article “Dilemmas of Representation” (2020) is a statistical study of the representation gap between the male and the female members of the parliament.

In addition to these works, Mahmood’s article “A Comparative Analysis of the Functioning of the Senate in USA and Pakistan” (2015) has adopted comparative study approach while studying the similarities and differences between the legislative powers of the American Senate and that of the Senate of Pakistan. The focus of the study is on the similarities and contrasts in the legislative powers of the American Senate and that of the Pakistani Senate. It, however, overlooks the complex variation within the functioning of presidential-bicameral model in which the American Senate operates and the parliamentary-bicameral model in which the Senate of Pakistan operates. Though all these studies provide useful data on the development

and evolution of the Senate, they do not systematically study it as a separate and independent federal territorial chamber working within the federal parliament of Pakistan. All the academics have mentioned the Senate in descriptive manner without analyzing the extent of its effectiveness and the factors that prevented or encouraged it to function independently and effectively as a chamber of provinces.

2. Semi-scholarly Literature

Some of the works on the topic are produced by the authors who have neither been academicians nor directly been part of the Senate as its members but they have served to the Senate as staff members. Sulehri, who has served as the Secretary General of the Senate of Pakistan, has authored a book titled *Parliamentary Practices and Working of Legislatures in Pakistan* (2019). It is a compilation of and a commentary on the rules of the procedures of Provincial Assemblies and the federal Parliament of Pakistan. Former secretary of the ECP, Dilshad's book *Intikhabaat ki Science aur Aslahaat* [The Science and Reforms of Elections] (2022) is a collection of his articles published in an Urdu newspaper. Some of these articles discuss the challenges to and some solutions for free and fair elections of the Senate. The books mentioned above are just description of the procedural rules of the Senate. They carry a personal narrative of the authors. They are not of academic works explaining the topic systematically.

3. Literature Offering an Insider Perspective

In addition to scholarly works, some of the senators have authored books that provide an insider perspective on the subject. Senator Ahmad has produced a fair deal of works on the varied

aspects of the subject under study. Amongst others, the most relevant book of Senator Ahmad is *Proportional Representation and the Revival of Democratic Process in Pakistan* (1983) that highlights the scope and importance of the proportional representation system in Pakistan. Nonetheless, the focus of this study is on adopting proportional representation system in the elections to National Assembly rather the elections of the Senate. His two others books titled *Jamhuriyat, Parliament aur Islam* [Democracy, Parliament and Islam] (1994) and *Pakistani Siyasat aur A'in* [Politics of Pakistan and the Constitution] (1994), collection of his speeches as senator, mention the role of the Senate in the effective functioning of the federal parliament of Pakistan. Senator Rabbani, a senior parliamentarian and the chairman of the Senate, 2015-2018, has authored *LFO: A Fraud on the Constitution* (2003) that describes the pretext and content of the LFO 2002 and its impacts on the imbalance between the legislature and the executive at federal level. Similarly, Senator Baloch shares his personal narrative of a reform agenda what he considers necessary to empower the Senate in “Senate Reforms in Pakistan” (2010). Senator Zafar also provides a description of his personal experiences as a senator in a chapter of his autobiography titled *Senator S.M. Zafar Ki Kahani Un Ki Apni Zubani* [The Story of Senator S.M. Zafar as Told by Himself] (2013). Senator Rabbani’s another book titled *A Biography of Pakistani Federalism* (2016) provides a historical narrative of the power distribution formula between the two levels of government, the Federal and the Provincial, and amongst the three organs of federal government legislature, executive and judiciary.

Senator Bhindar’s *Alphabetical Catalogue of Laws of Pakistan, 1836 to 2014* (2016) provides a documented catalogue of the laws of Pakistan. Senator Memon’s *Insight Into the Senate of Pakistan* (2017) is a description and appreciation of his legislative activities he had performed as a Senator. Another book of Senator Rabbani is *Entangled Threads: A Ruling Never*

Given (2019) which talks about the ruling, the author being the chairman of the Senate, intended to give regarding the imbalance of powers and which he, however, could not give due to the polarized institutional and political circumstances of the time. Senator Ahmad's other three books titled *A'in: Ikhtiyarat ka Tawazun aur Tarz-i-Hukamrani* [Constitution: Balance of Power and Governance] (2021), *A'in-i-Pakistan: Inharafat aur Bahali ki Jidojehd* [The Constitution of Pakistan: Deviations and Struggle for Restoration] (2021) and *Pakistan ka Jamhuri Safar: Parliament ka Kirdar aur Rawayaat* [Democratic Journey of Pakistan: The Role and Traditions of Parliament] (2021) shares his thoughts on the broader constitutional role of the parliament Pakistan. Senator Jabbar has written four books include *But Prime Minister* (2021), *A President and A Prime Minister* (2022), *Interactions with Pervez Musharraf* (2023), and *Speeches in the Parliament* (2023). The former three mention indirectly his experiences as a member of the Senate whereas the fourth one is a two-volume book covering his speeches he delivered on the varied national issues as a Senator.

Though, these sources contain firsthand information on the working and functioning of the Senate; they lack a balanced approach on the subject. The problem with these works is that they appreciate the activities of their respective authors only. They give monolithic, vague and partial information about the era or development they cover. These works are personality-specific and non-academic narrations highly loaded with the personal biases of their authors. Thus, to have both the insider and outsider perspective and to have a balanced explanation of the phenomenon, both the works of academics and that of the Senators' are utilised in the narrative of the study.

No doubt, all these scholarly and semi-scholarly studies have contributed greatly to generate a debate on the varied dimensions of the subject, yet more emphasize seems on the

factual narrations of the Senate. Putting other way, they have studied its role in promoting federalism in Pakistan in one way or the other. Conceptually, these studies failed to develop a linkage between the federal-parliamentarianism and bicameralism where the Senate works as a second federal chamber to promote the interests of its constituents, the provinces. These works have less frequently documented the actual performance of the Senate that whether it lived up to its ascribed role of advancing the interests of the provinces in the bicameral-federal Parliament in which it operates. The present study has filled this historiographical gap with regard to the Senate's role as a territorial chamber in the federal parliament of Pakistan.

7. Methodology and Sources

Methodologically, the exploratory-analytical approach in a historical-chronological order is employed in the present study. The study uses qualitative measures to determine the institutional strength and capacity of the Senate as a house of units and quantitative measures to assess the actual performance of the senators in advancing the interests of the provinces in legislative and non-legislative policy works at federal level. The study adopts widely the element of interpretation to reinforce the rationale for its argument. It has a strong quantitative component within the narrative where needed to quantify the legislative activity such as the amount of question asked by the senators and answered by the ministers and number of legislative bills introduced or passed in the Senate. The mixed method has helped understand the quantity and nature of the legislative business transacted in the Senate during the period under study. It has also been useful to quantify the increase or decrease in exercising the constitutional powers by the senators to influence the policy work of government in the favour of their constituents, the

provinces. The available data is arranged in a chorological and thematic order to explain the nature of the legislative activity of the Senate.

The chapters locating the rationale and institutional design of the Senate are built on by utilising the relevant *Constituent Assembly Debates*. The chapters explaining its institutional strength are based on formal powers and elections system enumerated in the Constitution of 1973. The chapters documenting the empirical evidence and appraisal of senators' performance in legislative and non-legislative policy works are built on a careful scrutiny of the *Senate Hansard* (mentioning bills, questions and debates on the provincial issues). The study of *Hansard* helped looking at the nature and themes of the legislative business transacted in the house during the period under study. In addition to the *Hansard*, the researcher has also conducted interviews of about three dozen sitting and former senators including two chairmen of the Senate who has been in office during the years under study and also of some leading staff members of the Senate. Similarly, some of the members of the National Assembly including two former prime ministers were interviewed to have an insider view on the actual working of the federal parliament. Further, the interviews of some leading journalists who covered the parliamentary beats were also conducted to understand the actual functioning the Senate.

8. Organization of the Study

After an introduction, outlining the problem statement and methodological issues, the remainder of study is structured into six chapters. Nonetheless, all the sections and chapters are mutually inclusive to each other for the comprehensiveness and coherence of the argument. The organization of the chapters is as per the following sequence.

Chapter one ‘Role of Federal Second Chamber as a Chamber of Provinces: A Conceptual Framework’ describes the relationship between federalism and bicameralism. It also explains the framework of analysis for locating the institutional design and institutional strength of a federal second chamber. It analyses a broader institutional environment in which a federal territorial chamber operates. It also takes into consideration the methodological considerations to appraise the performance of the Senate as a representative of the provinces at federal level.

Second chapter ‘Institutional Rationale and Design: Role of the Senate of Pakistan as a Chamber of Provinces’ explains the relationship between the ethno-regionally diversity of the Pakistani federation that resulted in an issue of political disparity between the larger provinces and less populous provinces in the federal parliament of Pakistan. It explores the constitutional arrangements that were adopted to manage this political disparity between the provinces in the two Constitutions (1956 and 1962) of Pakistan. It then explains the factors that led to the creation of the Senate as a federal territorial chamber to diffuse the political-representational differences between the larger and smaller provinces in the federal parliament. It provides an analysis of the institutional design and constitutional rationale for the creation of the Senate.

Third chapter ‘Institutional Strength and Capacity: Constitutional Powers of the Senate of Pakistan’ measures the institutional powers of the Senate as a second chamber of the bicameral-federal parliament. It is done so by analyzing the degree of (dis)similarity between the Senate’s powers and that of the National Assembly. It analyses the constitutional powers of the Senate as well as its institutional strength or capacity as a federal territorial chamber.

Fourth chapter ‘Bicameral Incongruence: Compositional Distinctiveness of the Senate of Pakistan’ uses compositional *incongruence* as a variable to measure the strength of the Senate

with regard to the extent of difference between its composition and that of the National Assembly. This chapter elaborates the basis of representation and the election methods to elect the members of the Senate. It raises the questions whether the proportional representation and equal regional representation in the Senate has practically contributed to the advancement of the provinces' interests at federal level.

Chapter fifth 'Non-legislative Policy Work of the Senate of Pakistan: Empirical Evidence Appraisal, 2012-2018' documents the performance of the senators in advancing the interests of the provinces in non-legislative business transacted during the years between 2012 and 2018. It evaluates the extent to which the senators used available parliamentary tools to oversee the non-legislative policy work of the federal government by asking questions from the ministers concerned, raising the issues of public importance and debating the government policies.

Chapter sixth 'Legislative Policy Work of the Senate of Pakistan: Empirical Evidence and Appraisal, 2012-2018' appraises the performance of the senators in influencing the legislative proposals of the government in the favour of provinces during the years between 2012 and 2018. It also analyses the factors that prevented or encouraged the senators to perform their constitutional role effectively. It is followed by conclusion that reinforce the arguments advanced in the previous chapters. The conclusion is followed by select bibliography and annexes.

Chapter 1

Role of Federal Second Chamber as a Chamber of Provinces:

A Conceptual Framework

The institutional role of a second chamber in a federation is to provide equal regional representation in the federal parliament. The primary function of a federal second chamber is to advance the concerns of the provinces at the federal level. This chapter explores the rationale for the creation and role of second chambers as territorial or regional chambers in federal states. It explains the framework for explaining the complexity and assessing the institutional strength of a federal second chamber. It describes the relationship between two variables (powers and composition) of a second chamber and the institutional strength of a federal second chamber as the representative of the units or provinces. It also describes the role of a broader institutional environment in which a second chamber operates. After setting these contexts, it describes the methodological considerations that help measure the extent of the performance of a second chamber as the regional chamber.

1.1 The House of Provinces: Rationale for Second Chambers in Federal States

Parliaments¹ exist, in some form, in approximately every country of the modern world. The structure of the parliament is either unicameral or bicameral. In federal states, bicameral

¹ The term parliament is not universally applicable to describe a representative assembly. It is generally used to describe the British parliamentary system. The term parliament is a generic term to describe a political institution—the national legislature. However, there are country-specific names, national assemblies, congress or legislature, to

parliament remains most common where two distinct houses, first chamber and second chamber,² are involved in legislative deliberations. Second chambers emerged as institutional device for representing the interests of the units or provinces in eighteenth and nineteenth centuries.³ According to Inter-Parliamentary Union, out of 190 national parliaments⁴ of the world, 78 or 41.1 percent are bicameral parliaments whereas 112 or 58.1 percent are unicameral parliaments.⁵

The logical base of a second chamber illustrated in American federation was that if one house is elected strictly on proportionate population basis, how to deal then with the issue of the imposition of the will of a most populous unit on the rest of the small federating units. Thus, the possible formula to resolve this representational issue was to introduce a second legislative chamber, later known as the Senate, representing all the constituent units equally in the federal legislature, the Congress. This logical and causal idea was presented by John Dickinson in American Federal Convention of 1787 and it was incorporated, later on, in the American Constitution. Dickinson's idea was elaborated further in *The Federalist Papers* as 'at once a constitutional recognition of the portion of sovereignty in the individual states, and an instrument for preserving that residuary sovereignty.'⁶ The essential characteristics of the idea were

describe the respective representative body. What common, however, in all these bodies, is they are constitutionally designed institutions to give, on the behalf of their constituents, an assent on the public policy. For details see, Philip Norton, "General Introduction," in *Legislatures*, Philip Norton ed. (Oxford: Oxford University Press, 1990), 1.

² The term second chamber usually is used to describe the upper house or senate. However, it may not be used to describe all the upper houses or senates since there are country-specific terms to describe the second chambers. Thus, the term 'second chamber' only is not appropriate to describe all the second chambers or the senates. In Netherlands, for example, the lower house is the second chamber whereas the upper house is the first chamber. Philip Lanudy, *Parliaments in the Modern World* (London: Dartmouth Publishing Company, 1989), 3-5.

³ For more detailed discussion on the rationale and structures of second chambers of the world see, John A. R. Marriot, *Second Chambers: In Inductive Study in Political Science* (Oxford: Clarendon Press, 1927), 153-75.

⁴ Three parliaments are not included in this because they are suspended due to change in their political regimes. They include Afghanistan, Myanmar and Sudan.

⁵ IPU Database on "National Parliaments," accessed on 14 September, 2023, https://data.ipu.org/compare?field=country%3A%3Afield_structure_of_parliament#pie.

⁶ Alexander Hamilton, John Jay and James Madison, *The Federalist Papers*, George W. Carey and James

implemented, later on, in some other federal unions i.e., in 1848 in Switzerland, in 1900 in Australia, in 1867 in Canada and in 1909 in South Africa.⁷

Federalism emerged as a constitutional arrangement that provides a power-sharing formula between the central and regional governments. It provides an institutionalized division of fiscal and administrative jurisdictions between provincial or regional, and central or federal governments. In federalism, the authority of deciding some matters exclusively rest with local units, states or provinces and beyond the constitutional jurisdiction of the central government, and the other matters fall outside the constitutional jurisdiction of the units or provinces.⁸

Perhaps, it is not always possible to disentangle clearly the policy responsibilities between the central and the provincial governments. In contemporary federations, the fiscal dependency of provincial government on the central government and dependence of central government on the provincial administration to execute its welfare policies are example in case. The fiscal dependence of the provincial government on the central government requires a platform where the concerns of the former are advanced when the latter debates the allocation of budgets and makes laws on those matters in the federal parliament. The second chamber, according to the theorists of comparative federalism, is a political institution that operates as a ‘house of provinces’ to promote provinces’ fiscal and administrative interests at federal level.

Putting in a proper way, in a federal state, the concerns of the provinces could not possibly be served through constitutionally decided distribution of powers between the provinces

MacLellan, eds. (Indiana: Library Fund Inc., 2001), 320. See also, Lord Campion, “Second Chamber in Theory and Practice,” in *The Future of the House of Lords*, Sydney D. Bailey ed. *The Journal of the Hansard Society*, Vol VII, No. 1 (Winter, 1953-54).

⁷ The idea of representing equally all the federating units having differing population and size has also been incorporated in the second chambers of the Council of Nationalities of Yugoslavia, the Soviet of Nationalities of the U.S.S.R., the *Bundesrat* of the West German Federal Republic, and the Senates of Bolivia, Argentina, Chile, Brazil, Cuba, Dominican Republic Mexico, Ecuador, India, Pakistan etc. Bailey, “Introduction” in *The Future of the House of Lords*, 8.

⁸ Robert A. Dahl, *Democracy, Liberty and Equality* (Oslo: Norwegian University Press, 1987), 114.

and the centre only but it also needs an institutional device to practically operationalise the formula of this powers distribution.⁹ The second chamber, according to Lori Thorlaksan, is an institutional device that provides for ‘representation of the federated units in decision-making at the federal level.’¹⁰ The federal second chamber as an institutional device not only advances the concerns of the provinces in the federal government but it also necessarily oversees legislation of popularly elected legislative house, the other half of parliament, and the policies of the government.¹¹ Such character of federal second chambers explains why majority of *strong* bicameralism or second chambers exists in the federal states.

The role of second chambers in federal states is to represent the interest of the regions or provinces¹² at federal level or governments. The second chambers not only represent the interests of the regions at federal level but also provide a platform for coordination between the two levels of government. For Lijphart, the majority of democratic federations adopts bicameralism whereas, with few exceptions, unicameralism is a characteristic of unitary states.¹³ The strong relationship between the federalism and bicameralism is demonstrated in the Table 1.1.

⁹ Campbell Sharman, “Second Chamber”, in *Federalism and the Role of State*, Bakvis, H. and Chandler, W. eds. (Toronto: Toronto University Press, 1987), 75-81.

¹⁰ Lori Thorlakson, “Comparing Federal Institutions: Power and Representation in Six Federations,” *West European Politics*, Vol. 26, No. 2 (April, 2003); 1-22, 4-6.

¹¹ Samuel C. Patterson and Anthony Mughan, *Senates: Bicameralism in the Contemporary World* (Ohio: Ohio State University Press, 1999), 10-16.

¹² The sub-national units are termed differently in different countries i.e., units, provinces, states, Lander, cantons, republics, regions, communities or oblasts. Wilfried Swenden, “Subnational Participation in National Decisions: The Role of Second Chambers,” in *Handbook on Multi-level Governance*, Henrik Enderlein, Sonja Walti and Michael Zurn eds. (Northampton: Edwards Elgar Publishing, Inc., 2010); 103-23, 103.

¹³ Arend Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries* (New Haven: Yale University Press, 1999), 200-15.

Table: 1.1. Federalism and Bicameralism: A Relationship

Legislature Type	Federal States			Non-Federal States		
Unicameral Central Legislatures				Costa Rica Luxembourg Greece Norway Israel Portugal Sweden	Denmark Malta New Zealand Iceland Guinea Lithuania	Finland Mauritius Hungry Papua New Latvia Slovakia
Bicameral Central Legislatures	Argentina Russia Belgium USA Pakistan ¹⁴	India Austria Switzerland Canada	Australia Spain Brazil Germany	Bahamas Jamaica Netherlands France	Barbados Japan Cech Republic Trinidad	Botswana Colombia Poland Ireland UK

Source: Swenden, *Federalism and Second Chambers*, 26.

A strong connection between the federalism and bicameralism is explained by Madison who argues that the Senate enables ‘state governments such an agency in the formation of federal government as must secure the authority of former, and may form a convenient link between the two [federal and state] systems.’¹⁵ For Smiley and Watts, a second chamber is an institutional device in what they term ‘intra-state federalism,’ a federation where representation to regional governments is given in the federal political institutions.¹⁶ Putting differently, the constitutional mandate and institutional role of a second federal chamber is to advance the concerns of its constituents, the provinces, at federal level.¹⁷ Stepan argues that in coming together federations, the regions come together under a national authority on a precondition of having some mechanisms that provides them representation at the national government.¹⁸ Following the intra-state and coming together definitions of federalism, the need for creating such mechanisms or

¹⁴ The name of Pakistan is not included in the original table of Swenden’s book. It is added by the researcher.

¹⁵ Hamilton, Jay and Madison, *The Federalist Papers*, No. 62, 317.

¹⁶ R. L. Watts and D. V. Smiley, *Inter-State Federalism in Canada* (Toronto: Toronto University Press, 1985), xv.

¹⁷ Meg Russel, “The Territorial Role of the Second Chamber,” *Journal of Legislative Studies*, Vol 7, No. 1 (2001), 105-18.

¹⁸ A coming together is federation where the previously sovereign states come together to form a larger national government and for that matter these states enjoy equal political powers under the national authority. Alfred Stepan, *Arguing Comparative Politics* (Oxford: Oxford University Press, 2001), 315-63.

institutional devices is higher where the national or federal government depend on the regional governments to implement its policies, i.e., tax collection, projects of public welfare and implementation of federal legislation and where the regional governments are financially dependent on federal governments for reallocation of federal resources.¹⁹ In other words, in ‘co-operative federations’ a federation where the regional and federal governments are highly interdependent on each other,²⁰ the need of such mechanism for coordination between the two levels of government is higher.

Other factors that correspond to the connection between federalism and second chamber is the tendency of centralization of powers in some federations. Arguably, in a federation where the tendency of centralization of powers is higher, the higher the need for second chamber is to provide the regions representation at centre to offset such tendencies. The key argument here is that a second chamber is an institutional device that not only represents the regions in the federal decision-making equally but also provides a platform for coordination between the regional and federal governments.

The territorial role of a second chamber is that it allows ‘special outlook for geographical components such as regions or states’²¹ at national level. Though the change in structure of national legislatures has remained in words of Longley and Olson from ‘two to one,’ or bicameral to unicameral yet several countries²² have adopted bicameral legislatures where the second chambers were introduced to provide representation to provinces at national level. In federations, for Baldwin, the classic role of second chamber is equal territorial representation of

¹⁹ Swenden, “Subnational Participation in National Decisions,” 104-5.

²⁰ Joseph F. Zimmerman, “National-State Relations: Cooperative Federalism in the Twentieth Century,” *Publius*, Vol 31, No. 2 (Spring, 2001), 15-30.

²¹ D. Olson and L. Longley, “Conclusions: Cameral Change Politics and Processes in Three Nations and Beyond,” in *Two Into One*, L. Longley and D. Olson eds. (Boulder, CO: Westview Press, 1991), 2.

²² For instance, China, Poland, Hungary, and USSR. Olson and Longley, “Conclusions,” 204.

the territorially-demographically unequal units in the national government.²³ The history of territorial role of the second chambers goes back to the establishment of modern federal states.²⁴ In states where the units of unequal territory and population grouped to form a federation, the need for a political institution was natural that could provide a platform for representation of each unit. Such requirement was fulfilled through second chambers by giving equal representation to all federating units irrespective of differences in their territory and population.²⁵ The territorial representation of provinces in select second chambers is depicted in the Table. 1.2.

²³ Nicholas D.J. Baldwin, "Concluding Observations," in *Second Chambers*, special issue of *Journal of Legislative Studies*, N. Baldwin and D. Shell eds. Vol 7 No. 1 (2001); 171-80, 173.

²⁴ The fathers of US Constitution reached at a constitutional compromise where, in bicameral federal legislature, the Congress, the representational imbalance between the larger and smaller states was balanced by giving equal representation to all states in the Senate irrespective of their size and population. For more debate on it see, William H. Riker, "The Senate and American Federalism," *American Political Science Review*, Vol 49, No. 2 (June, 1955), 452-69. Similarly, the founders of the Australian Constitution faced the contentious issue of compositional design of the Senate. The final design of Australian federal parliament is a hybrid structure built on US and Westminster models in which the seats allocation in House of Representative is based on population whereas the Senate gives equal representation to all the federal units. J. Holmes, "The Australian Federal System," *International Political Science Review*, Vol 5, No. 4 (1984), 397-414. See also, Geoffery Sawer, *Australian Government Today* (Melbourne: Melbourne University Press, 1973), 52-57.

²⁵ It achieved earlier through legislative bodies where the ambassador of states or units could meet to discuss the concerns of their constituents. Examples in case are thirteenth-century Swiss Confederation and nineteenth century German Confederation. Russell, "The Territorial Role of Second Chamber," 105.

Table: 1.2. Territorial Representation in Select Second Chambers

	Second Chamber Represents	Selection Method	Distribution of Seats
Australia	states	direct election	equal
Austria	<i>Länder</i>	<i>indirect election</i>	<i>weighted</i>
Canada	provinces	appointment	<i>weighted</i>
Germany	<i>Länder</i>	<i>indirect election</i>	<i>weighted</i>
India	states	indirect election	population-based
Italy	regions	direct election	population based
Poland	voivodships	direct election	equal
Pakistan ²⁶	provinces	indirect election	equal
Russia	republics or regions	indirect election	equal
South Africa	provinces	indirect election	equal
Spain	provinces	direct election	equal
	Regions	indirect election	weighted
Switzerland	cantons	direct election	weighted
USA	states	direct election	equal

Source: Russel, “The Territorial Role of Second Chamber,” 108

The effectiveness of a second chamber in performing its role to represent the interests of the provinces varies from one country to another. It happens so because of two factors: firstly, the institutional strength of second chamber which is manifested in extent of (dis)similarity between the composition and powers of two chambers; and, secondly, the institutional environment (federation type, cooperative or dual; regime type, parliamentary or presidential; complexity of internal structure, party systems and committees’ structures) in which the Senate operates.²⁷

Arguably, second federal chamber cannot effectively safeguards the interests of the provinces

²⁶ The name of Pakistan is not included in the original table of Meg’s research article. It is added by the researcher.

²⁷ Wilfried Swenden, *Federalism and Second Chambers, Regional Representation in Parliamentary Federation: The Australian Senate and German Bundesrat Compared* (Brussels: P.I.E.-Peter Lang, 2004), 29.

when its institutional strength and broader institutional environment in which it operates is not conducive to advance the concerns of the provinces.

The present study offers two propositions: firstly, it has explained the variables that help understand the institutional design and institutional strength of a second federal chamber as a chamber of province; secondly, it has tested these hypothetically assumptions regarding the role of second chamber in regional representation by taking the Senate of Pakistan as a unit of analysis. On the basis of empirical data taken from the Pakistani Senate, it situates its position in institutional strength as a second federal chamber. It also appraises its performance in regional representation within intergovernmental relations and a broader institutional environment in which it operates. In the next sections of this chapter, some important variables are explained that help comprehend the role of a federal second chamber. It is followed by methodological considerations as how the study has sought to appraise the Pakistani Senate's performance as a chamber of provinces.

1.2 Towards a Framework of Analysis

The role of federal second chamber is to safeguard the interests of the provinces. The variables which determine the institutional strength of a second chamber in representing the interests of the provinces are: relativity of powers and composition between the first chamber and second chamber; character of federation (dual or cooperative); type of government presidential and parliamentary; nature of political parties; degree of party control; and, degree of homogeneity of a federation in which it operates. There exists a complex interrelationship amongst these variables and the functioning of a second chamber as house of provinces.

1.2.1 (A)symmetrical and (In)congruent Bicameralism: The Institutional Strength of Second Chamber

A federal second chamber advances the concerns of provinces at federal level. For that purpose, a second chamber should be clothed with sufficient institutional capacity to perform its role effectively. Arend Lijphart, a renowned political theorist, has described two variables, level of powers (dis)similarity and compositional (dis)similarity, between the first chamber and that of second chamber which determines the degree of strength of bicameralism in his classical work *The Patterns of Democracy*.²⁸ As mentioned earlier that a second chamber can perform its role, as a regional chamber, effectively if it enjoys sufficient institutional *strength* that is manifested in the degree of *dissimilarity* in the ‘composition’ and the level of *similarity* in the ‘powers’ of the second chamber with that of the popularly elected first chamber.²⁹ Therefore, it seems necessary to index the composition and powers of a second chamber to assess its potential institutional strength for advancing the concerns of the provinces. It is assumed that a second chamber more *dissimilar* in composition and the more *similar* in powers with that of the first chamber likely has more potential for advancing the purpose of regional concerns. The assumption can be explained by taking into consideration the composition and powers of second chamber.

²⁸ Lijphart, *Patterns of Democracy*, 201-16.

²⁹ This argument of Lijphart is also further explained by Sartori. Giovanni Sartori, *Comparative Constitutional Engineering: An Inquiry into Structures, Incentives and Outcomes* (New York: New York University Press, 1994), 183-89.

1.2.2 Bicameral Strength of a Second Chamber: Assessing Composition

The first variable that indicates the strength of a second chamber as a house of provinces is level of compositional *dissimilarity* between the second chamber and that of the first chamber. According to Lijphart's assumption, a second chamber that is compositionally *dissimilar* to the first chamber has more potential institutional strength to advance the interests of its constituents effectively. The Lijphart's variable of compositional *dissimilarity* enables us to determine the compositional differences between the two chambers of a federal parliament.

The compositional *dissimilarity* between the two chambers can be measured through a set of sub-variables that take into consideration the various aspects of compositional *dissimilarity* between the two chambers. The sub-variables related to the composition of a second chamber operating in a parliamentary federation are:

1. The election system to elect the members of second chamber;
2. The level of compatibility between the electoral systems used to elect the members of the two chambers;
3. The relativity between the term of office between the two chambers;
4. The staggered nature of elections to second chamber;
5. The level of relativity of timings of elections between the two chambers;
6. The seat distribution (proportional regional representation or PRR; equal regional representation or ERR; weighted regional representation or WRR) formula³⁰ for allocating seats to provinces;

³⁰ Swenden categorizes the formula into three levels: first, 'proportional regional representation or PRR where the principle of 'one person one vote' is employed; second, alternatively, 'equal regional representation' or ERR where the principle of equal representation is employed to give equal representation to all provinces irrespective of their size and population; third, 'weighted regional representation' or WRR where though the smaller provinces are overrepresented but not to the extent of giving them equal representation to larger provinces. Swenden, *Federalism and Second Chambers*, 32.

7. The relativity of size between the two chambers.³¹

This set of sub-variables relating to the composition of a second chamber determines the degree of (dis)similarity between the composition of the first chamber and that of the first chamber. It also helps index the strength of a second chamber manifested in its composition. To measure the extent of compositional (*dis*)similarity between the Senate of Pakistan and the National Assembly, the adapted set of these seven sub-variables is used in the present study.

1.2.3 Bicameral Strength of a Second Chamber: Assessing Powers

In Lijphart view, the second variable that determine the strength of a second chamber is the degree of *similarity* between the powers of a second chamber and that of the first chamber. The powers of a second chamber can be classified into three categories (legislative, financial and administrative-executive). A second chamber cannot effectively represent the interests of the provinces until it is not clothed with the sufficient constitutional powers to influence the legislative and fiscal policies of the federal government in the favour of its constituents, the provinces.

Lijphart's second variable that determines the strength of a second chamber is a degree of *similarity* between the powers of a second chamber and that of the first chamber. The powers of a second chamber can further be categorized into following categories i.e., ordinary legislation, powers to (dis)approve the federal budget, and, powers to amend the federal constitution.³² The institutional strength of a second chamber relating to its powers' variable can be assessed through following set of sub-variables.

1. The powers to introduce ordinary legislation;

³¹ Swenden, *Federalism and Second Chambers*, 32.

³² Here reference to the capacity of a second chamber is to those 'formal powers' that embedded in the constitutional framework of a parliamentary federation.

2. The powers to amend ordinary legislation;
3. The powers to veto ordinary legislation;
4. The powers to introduce fiscal legislation;
5. The powers to amend or object fiscal legislation;
6. The powers to veto fiscal legislation;
7. The powers to set its agenda of legislative business independently;
8. The powers to consent on amending the federal constitution;
9. The powers to select high offices (higher courts etc.).³³

To measure the degree of powers *similarity* between the powers of the Senate of Pakistan and that of the National Assembly of Pakistan, the adapted set of these nine sub-variables is used in this study. These sub-variables enable us to situate the institutional strength of the Senate relating to its constitutional powers as a house of provinces.

The two variables (composition and powers) facilitate locating the strength of Pakistani bicameralism in which the Senate of Pakistan operates as a second chamber to represent the concerns of the provinces. To rate the strength of Pakistani bicameralism, the study employs the Lijphart's comparative method which suggests three categories of bicameralism's strength. Firstly, a bicameralism is strong where a high level of *dissimilarity* in composition and a high-level *similarity* in powers between the two chambers is combined. Secondly, a bicameralism is intermediate where a high level of *dissimilarity* in composition and low level of *similarity* in powers between the two chambers is combined and vice versa. Thirdly, a bicameralism is weak where a high level of *similarity* in composition between the two chambers exists and the second chamber enjoys very limited formal powers.³⁴

³³ Swenden, *Federalism and Second Chambers*, 36.

³⁴ Lijphart, *Patterns of Democracy*, 213.

1.3 Regional Representation and Institutional Strength of a Second Chamber in Perspective

The institutional environment in which a second chamber operates as a regional house greatly influences its compositional structure and institutional capacity. It is, therefore, argued that all the sub-variables are not equally applicable to all federal second chambers. While employing these variables to assess the institutional strength of the Senate of Pakistan, these variables are adapted to locate their *actual* role in influencing the Senate's performance in regional representation. To identify that which of the variables explains more significantly the representation of provinces, it seems that it is manifested in the compositional structure of a second chamber. To measure the manifestation of provinces' representation in the composition of a second chamber, the following points are taken into account.

The first point in this respect is that the equal regional representation to the small provinces alone, that is for comparative federal theorists, an over-representation of the small provinces does not increase itself the performance of a second chamber as a representative of the provinces.³⁵ What it contributes to the working of a second as a regional chamber is that it gives over-representation to smaller provinces or more leverage to the senators from the smaller province. And, it eventually spares a more political space for political parties from the smaller provinces. With regard to equal regional representation in the Senate of Pakistan, its two aspects are emphasized. Firstly, whether such facility of equal representation was utilised by the senators to promote the concerns of the provinces by using this equal status of the smaller provinces.

³⁵ David E. Smith, *The Canadian Senate in Bicameral Perspective* (Toronto: Toronto University Press, 2006), 67-89.

Secondly, whether the equal opportunity was available to all the senators to participate independently in the legislative business of the Senate.

Second point in this context is related to the sub-variable that deals with the staggered elections of a second chamber. The staggered elections play substantial role when the entire membership of first chamber and the half of the second chamber is renewed simultaneously and where a second chamber is elected directly. In such simultaneity, the issues of provincial importance are overlooked in the election campaigns run for the first chamber that is considered the representative of the federal interests as oppose to that of the provinces. Since the second chamber is considered a representative of the provinces, it needs to be elected on the basis of raising the issues of provinces.³⁶ As the members of the Pakistani Senate are indirectly elected, the role of staggered election is to produce a continuity in the federal parliament where the Senate of Pakistan continue functioning even when the National is dissolved.

The third point in this regard is the longer term of the senators than that of the members of the first chamber. It is argued that the role of longer term makes the senators less dependent on the political parties for their reelection.³⁷ In Pakistan, the party system and role of party head in the Senate election does not corresponds to this assumption. The relationship between the longer term of the senators and their dependence on parties is explained in term of party head's role in the nomination of the candidates for the Senate elections.

Similarly, not all the sub-variables that determine the powers of second chamber are equally applicable and relevant to assess the performance of a second chamber in regional representation. The powers *congruence* variable is contested by many comparative federal

³⁶ Arend Lijphart, *Election Systems and Party Systems: A Study of Twenty-Seven Democracies, 1945-1900* (Oxford: Oxford University Press, 1994), 78-95.

³⁷ As Madison distinguishes between quality and stability that is "continual change of even good measures is inconsistent with every rule of prudence and every prospect of success". Hamilton et al., *The Federalist*, 323.

theorists on the grounds that why to give fiscal powers to the second chamber on the bills that exclusively deal with the federal departments and why the second chamber should be allowed to investigate the government policies that have nothing to do with provinces' fiscal, legislative and administrative responsibilities.³⁸

The role of legislative powers of a second chamber as regional chamber needs to be considered in two matters. Firstly, whether a second chamber enjoys a power of consenting the bill that seeks an amendment into the territorial jurisdictions of the country. And, secondly, whether its consent is mandatory on a bill affecting the provinces' financial share in the federal tax revenues.³⁹ Thus, the institutional capacity and position of the Senate of Pakistan is measured on two issues (its role in consenting the bills seeking an amendment to the federal constitution and bills seeking approval of the federal budget).

1.4 Broader Institutional Environment: Implications for Second Chambers

It is admitted that a second chamber can serve effectively to the interests of the regions or provinces, if its composition indicates regional representation adequately and it is clothed with formal powers sufficiently. It is, however, equally important to consider other factors that influence the institutional design and the *actual* working of a second chamber as a representative of the provinces. For instance, why the majority of federal second chambers are not empowered with fiscal powers. The answer to such questions could be found by understating broader institutional environment in which they operate. What follows is a brief discussion on factors

³⁸ David C. Nice, *Federalism: The Politics of Intergovernmental Relations* (New York: St. Martin's Press, 1987), 44-76.

³⁹ Swenden, *Federalism and Second Chambers*, 42.

that form the institutional environment in which a second chamber operates as a regional chamber.

1.4.1 Nature of Federation: Cooperative or Dual?

The degree of policy (dis)entanglement between a federation and its units defines the type of federalism. Considering the power-sharing variables, the political theorists divide federations into two types the ‘dual’ and the ‘cooperative’. Theoretically, in dual federations, the strong policy disentanglement exists between the provinces and the federation whereas in the cooperative federations, there exists a high degree of policy entanglement between the provinces and the federation.⁴⁰ Arguably, the higher the degree of policy-dependence between the provinces and the federation, the higher the need for an intergovernmental cooperation between the two levels.

The continuum of a cooperative or dual federalism can conceptually be illustrated by measuring policy entanglement at three levels or dimensions: firstly, the degree of centralization of *legislation* at federal level; secondly, level of *financial* entanglement between the provincial and the federal governments; thirdly, the extent to which the entanglement of administrative and law-making functions have been divided to the same or between the provincial and the federal governments.⁴¹ The dependency of the provincial and federal government on each other in law-making and joint policy-programs requires a significant intergovernmental cooperation.⁴² Considering this three-dimensional framework that explains the degree of policy

⁴⁰ For debate on types of federalism see, Nice, *Federalism*, 1-22.

⁴¹ Ronald L. Watts, *Comparing Federalism* (Ontario: Queens’s University Press, 1999), 73.

⁴² H. Klatt, “Centralizing Trends in Western German Federalism,” in *Recasting German Federalism: The Legacies of Unification*, C. Jeffery, ed. (Michigan: University of Michigan Press, 1999), 40-58.

(dis)entanglement, this study has examined the character of Pakistani federalism and its connection to the institutional strength, capacity and position of the Senate as a regional chamber.

1.4.2 Form of Government: Presidential or Parliamentary?

The second notion related to the institutional environment is form of government or regime type. The federal second chamber operates in two systems of government, presidential or parliamentary. The form of government (whether presidential or parliamentary) greatly influences the institutional strength of a second chamber and its working as a federal institution. The essence of *Parliamentarianism* is that it is ‘a system of government in which the Prime Minister and his or her cabinet are accountable to any majority of the members of parliament and can be voted out of office by latter, though an ordinary or constructive vote of no-confidence.’⁴³ Amongst others,⁴⁴ the main characteristic of *Presidentialism* is that it is a system where the legislature and the executive are mutually *independent*⁴⁵ and where the president is neither from and nor responsible to the legislature but to the constitution or the people.

The role of a system of government in influencing the working and the performance of a federal second chamber is manifested in its role in holding the executive accountable, approving or voting on money bills and on its powers of general legislation. For instance, federal second chambers are found *asymmetrical* in parliamentary systems whereas *symmetrical* in the

⁴³ W. C. Müller, “Austria: Imperfect Parliamentarianism but Fully Fledged Democracy,” in *Delegation and Accountably in Parliamentary Democracies*, T. Bergman Strøm and W. C. Müller eds. (Oxford: Oxford University Press, 2003), 13.

⁴⁴ Other characteristics of this system are, fixed term of both (the executive and the legislature), separation of offices (Presidency and the Congress), and both are directly elected but through difference processes. Further, the President cannot be removed from the office by the legislature through a no-confidence vote but he/she can be impeached by the latter on his/her violation of the constitution. For more details on contrasts between the parliamentarianism and presidentialism see, Arend Lijphart, ed. *Parliamentary Verses Presidential Government* (Oxford: Oxford University Press, 1992).

⁴⁵ Arend Lijphart, “Introduction,” to *Parliamentary Verses Presidential Government*, Lijphart ed. 1-31.

presidential system with regard to two criteria (composition and powers) of a *strong* bicameralism.⁴⁶ It happens so because the difference of powers between the second chamber and that of the first chamber in the presidential and the parliamentary systems in performing following three functions. Firstly, the role of second chamber in political accountability of the executive that is to remove/impeach the government from the office. In *presidentialism*, a second chamber enjoys the power of presidential impeachment whereas in *parliamentarianism*, the second chamber does not participate in a no-confidence vote against the executive. Secondly, its role in approving the federal budget. The federal second chamber operating in presidential system does enjoy the power of approving/vetoing it whereas they do not approve/veto it in the parliamentary systems. Thirdly, its role in general law-making on which majority of federal legislative chambers enjoy co-equal legislative powers with that of the first chamber in both the presidential and the parliamentary systems.

As the system of government has substantial influence on the institutional complexity and strength of a second chamber, the nature of Pakistani Senate's institutional relations with the executive is analysed by considering the regime type in three ways. Firstly, its institutional strength in holding executive accountable by overseeing latter's non-legislative policy works. Secondly, its constitutional mandate and actual performance in approving the federal budgets. Thirdly, its constitutional capacity and actual performance in safeguarding the provinces' interests by participating actively in the law-making policy works of the federal government.

Pakistan is a bicameral-parliamentary federation. The parliamentary regime type results in what Smiley terms as 'executive-federalism'⁴⁷ where second chamber's strength as a house of

⁴⁶ For more details on reasons for this assumption see, Michael Mezey "Classifying Legislatures," in *Legislatures*, Philip Norton ed. (Oxford: Oxford University Press, 1990), 129-49.

⁴⁷ It corresponds to the structure of an intergovernmental relations where executive pre-dominates on legislative business of the legislature. R. L. Watts and D. V. Smiley, *Inter-State Federalism in Canada* (Toronto: Toronto

provinces is affected in three ways. Firstly, the sway of power remains with the executive as compare to that of the parliament. Secondly, the democratic legitimacy bonus is conferred to the first chamber and the second chamber faces a crisis of perceived democratic legitimacy. Thirdly, it fosters a strict party-discipline on the members of the second chambers. The implications of regime type on the institutional design of the Senate of Pakistan are studied in three matters (political accountability of the government; constitutional role in federal budget; and, general law making especially in the constitutional amendments).

1.4.3 Socio-economic Heterogeneity of Federation

A final variable that needs to be considered is variations in the socio-economic profile of a federal state in which a second chamber is established as a house of provinces.⁴⁸ The ethnolinguistic diverse and territorially different regions or units unite themselves to form a federation. The units can be heterogeneous in terms of their socio-economic conditions and demographic profiles. The heterogeneity of the units or the provinces can be illustrated in two ways. Firstly, the socio-economic differences existed from within one province and between the different provinces. Secondly, the differences in territory and population that results in the political-representational disparities between the provinces. In Pakistani context, role of such differences is explained that whether these divisions prevent the senators to coordinate with each other on issues of collective regional concerns or not. The manifestation of such divisions on these ethnolinguistic lines in the legislative activities of the senators is also noticed.

University Press, 1985).

⁴⁸ Swenden, *Federalism and Second Chambers*, 55-56

1.5 Measuring Representation of the Provinces: Methodological Considerations

In the previous sections, a framework for analysis to assess the institutional role and strength of a federal second chamber is explained. The framework helps comprehend the institutional design and institutional complexity of a second federal chamber as a chamber of provinces. It enables us measuring the performance of a second chamber in promoting the interests of the provinces. It also discusses the factors that encourage or prevents the senators to safeguard the provinces' interests.

By employing this framework, the subsequent chapters of the study have analysed the role and performance of the Senate of Pakistan as a territorial chamber at two levels. Firstly, how the composition and the powers of the Senate are aligned with the federal structures in which federal second chambers are embedded. Secondly, to what extent the Senators have used their capacity as the representative of the provinces in advancing the legislative, fiscal or administrative interests of their constituents, the provinces.

Chapter 2

Institutional Rationale and Design:

Role of the Senate of Pakistan as a Chamber of Provinces

In 1973, the Constitution-makers introduced the Senate as a chamber of provinces with the rationale to diffuse the political-representational disparities between the provinces. The focus of this chapter is to describe a linkage between the territorial-political cleavages and role of the Senate of Pakistan as a house of provinces to represent the interests of the provinces at federal level. The first section describes ethnic and territorial differences between the provinces or between the eastern and western regions of the Pakistan. The second section explains the political mobilization on the basis of these ethnic-territorial differences between the two regions. The third section discusses constitutional arrangements introduced by the Pakistani federation to diffuse or manage the territorial-political disparities of regional representation at federal level. The fourth section analyses the pre-1971 constitutional debates held to introduce a second federal chamber and political constrains that prevented decision-makers to not introduce a federal second chamber. It also concludes the inability of Pakistani federation to resolve the issue of political disparities between the provinces that eventually led to its disintegration in 1971. And, the final section explains the institutional rationale for and institutional design, as embedded in the Constitution of 1973, of the Senate of Pakistan as a territorial chamber.

2.1 Territorial-Political Cleavages and Politics of Regional Representation in Pakistan, 1947-1971

Pakistan emerged as a divided nation or a state with two fragmented regions, East Bengal, now Bangladesh, and western region, the contemporary Pakistan, differed in every way except for one, religion,¹ (Islam), in 1947. The western region comprised of four province can be characterized as larger in territory, smaller in population, ethno-linguistically heterogeneous from within, wealthier in economy and a home of Urdu and Punjabi-speaking ruling elite whereas the eastern region comprised of one single province, East Bengal, was smaller in territory, larger in population (making approximately 55 percent of the total population of the country), ethno-linguistically homogeneous, comparatively less wealthier and home of less privileged Bengalis. Except for other socio-cultural differences, the imbalance between the two regions was substantially visible in two ways: firstly, the disproportionality in their territory or the population; and, secondly, heterogeneity in their cultures and languages. The western region was consisted of 85.5 percent of total land with only 45.5 percent of total population of the country whereas the eastern region covered only 14.8 percent of the total land with 55.5 percent of the total population of the country.²

The western region was an ethno-linguistically heterogeneous³ region whereas the eastern region, the East Bengal was an ethno-linguistically homogeneous region. According to 1951

¹ The followers of Islam were 85.9 percent of total population of country and rest 14.1 percent were religious minorities, the Hindus as a dominating one. Looking at the concertation of Muslims between the eastern region and the western region, 97.1 percent of the total population of western region was Muslims whereas the in eastern region the number of the Muslims was 76. 8 of the total population of the East Bengal. From within the East Bengal, the distribution of population by religious orientation was 77 percent Muslims and 23 percent Hindus. *The Census of Pakistan, 1951*, Vol I (Karachi: The Government of Pakistan, 1951), 27.

² *The Census of Pakistan, 1951*, Vol I., 35.

³ The ethno-linguistic heterogeneity from within the four provinces of the western region was noticeable. For instance, within the all the provinces, except for the East Bengal where 98% speak Bengali, the residents' mother-tongue or dialects has been other than that of the majority language. For example, in Punjab, Saraiki; in Sind

Census, distribution of languages to be spoken in the provinces, in percentage, was as follows: Urdu 7.2;⁴ Bengali 54.6; Punjabi 28.4; Pashtu 7.1; Sindhi 5.8; Baluchi 1.4; and, English 1.8 percent.⁵ Looking at the figures, it is clearly evident that the Bengali language was a language of the majority of the Pakistanis. Interestingly, the Bengali language was hardly to be spoken or understood in the western region. It was spoken in and to be understood by the people of eastern region, the one province, the East Bengal. Similarly, Urdu language, which was declared to be the national or official language of the country, was language of minority, mostly concentrated at the Karachi, the then capital of Pakistan.⁶ It was little understood or spoken in the East Bengal. Such a noticeable ethno-territorial differences suggests a substantial fragmentation of Pakistani state on the basis of language and territory.

Politically, the term ethno-territorial diversity is loosely applied to that country within which more than one political unit or provinces exists and where within those provinces speaker of several languages resides.⁷ Ethno-territorialism is a pronounced attempt to highlight cultural, political and economic characteristics of an ethnic group to reorganize it for political spaces or concessions. The political elite of such group tries to hold sway over temporal and spatial references by highlighting the uneven economic and political capacities. Such emotional attachments and distinct identity of the group are politically expressed to demand for accepting

Balochi and in urban cities like Karachi the majority of Urdu-speaking, in Baluchistan, Brahvi and Pashtu; and N.W.F.P, the Hindko in Hazara belt, *The Census of Pakistan, 1951*, Vol I, 71.

⁴ It includes persons speaking language as their Mother Tongue and also those who speak it as an additional language. It is to be noticed here that out of this figure 4 percent of the people to whom Urdu was not their mother-tongue had claimed to be able to speak it. Considering this 7.7 percentage as out of 100 percent, it was to be spoken or understood by 55 percent in Karachi; by 27 percent in Punjab; and, by 1.7 percent both the Bahawalpur State and East Bengal, *The Census of Pakistan, 1951*, Vol I, 71.

⁵ *The Census of Pakistan, 1951*, Vol I, 71.

⁶ Considering this 7.7 figure as 100 percent, out of this 100 percent, it was to be spoken or understood by 55 percent in Karachi; by 27 percent in Punjab; and, by 1.7 percent both the Bahawalpur State and East Bengal, *The Census of Pakistan, 1951*, Vol I., 71.

⁷ More properly speaking, a multilingual country is which has a “considerable internal linguistic diversity with one super-imposed official language”. For more on it see, Gerda Mansour, *Multilingualism and Nation Building* (Clevedon: Multilingual Matters Ltd., 1993), 2.

the segmental autonomy of the provinces and re-ordering of federal political institutions for a sub-national political participation in federal decision-making processes.

In territorially fragmented federations, the emergence of ethno-regionalism is a response of provinces to what Smiley terms ‘asymmetrical federalism’ where there exists a considerable imbalance in the economic and political autonomy of the provinces of same constitutional status.⁸ If there exists a tension between the centralized federation and demand for provincial autonomy, the marginalized provinces transform their economic and political ‘grievances into the languages of ethnicity.’⁹

The feeling of politically underrepresented of the marginalized provinces or to be ‘internally colonised’ contributes to the political instability of a federation and, in some cases, its eventual disintegration.¹⁰ It is this highly intricate connection between ethno-regionalism and political-representational demands that convinced the post-disintegrated Pakistani federation to accommodate the territorial-political disparities by introducing the Senate of Pakistan as a chamber of provinces to provide equal political representation to territorially uneven provinces at federal level. Before discussing the role of the Senate as a chamber of the provinces, it seems pertinent to discuss the territorial-political disparities between the provinces of Pakistan that led eventually to the creation of the Senate of Pakistan as a regional chamber to diffuse such representational disparities at federal level.

⁸ Watts, *Comparing Federal Systems*, 63-69.

⁹ Mona Chettri, “Engaging the State: Ethnic Patronage and Cultural Politics in the Eastern Himalayan Borderland,” *Journal of South Asian Studies*, Vol 38, No. 4 (2015), 558-73.

¹⁰ Examples in case are Pakistan in 1971 and Czechoslovakia in 1992.

2.1.1 Ethnic Identity Formation and Regional Politics: The Bengali Language Movement, 1952

The territorially concentrated populations potentially translate their territorial cleavages into the political cleavages or expressions.¹¹ The elite of such territorially concentrated groups mobilize their population on the basis of emotional attachments i.e., attachment to the glory of past or to the shared language and culture. Such mobilization in a territorially divided state results in a complex ethnic and political conflicts. What follows is a brief discussion on a linkage between the territorial cleavages and ethno-political conflicts in Pakistan.

The Bengalis started transforming their ethnic-territorial grievances into economic and political concerns. For that purpose, they used the language of ethnicity¹² and territorial cleavages. In 1948, the Constituent Assembly of Pakistan proclaimed Urdu, together with English, as the *langue franca* of the country as well as the language to be used in the official matters including the Assembly. Dhirendranath Datta, an active Congress leader of the East Bengal, proposed an amendment to Assembly's ordain that, along with Urdu and English, the Bengali, the language of 44 million out of 69 million population of the Pakistan, should also be declared as the language of the Assembly.¹³ Mr. Liaquat Ali Khan, the then Premier of Pakistan, dismissively responded to Datta amendment by equating Urdu as a 'language of nation and *lingua franca* of the country.'¹⁴ In March, 1948, Mr. Jinnah, in his capacity as the founder of the

¹¹ For a detailed discussion on the point see, Roy E. H. Mellor, *Nation, State and Territory: A Political Geography* (London: Routledge Publishers, 1989).

¹² For more on relationship between ethnicity and political developments see, Cynthia H. Enloe, *Ethnic Conflict and Political Developments* (Boston: Little Brown and Company, 1973).

¹³ *The Constituent Assembly Debates* (The National Assembly of Pakistan, dated February 25, 1948), 15-16.

¹⁴ Mr. Liaquat responded that "Pakistan has been created because of the demand of a hundred million Muslims in this sub-continent and the language of a hundred million Muslims is Urdu. Pakistan is a Muslim state and its *lingua franca* is the language of the Muslim nation and that language can only be Urdu and no other language." *The Constituent Assembly Debates* (The National Assembly of Pakistan dated February 25, 1948), 17. It is argued that he was mistaken at in his both the assertions as it were not only the Urdu speaking Indian Muslim who had demanded for the creation of Pakistan but it was the Bengalis who had been leading the movement for it. Similarly, it was not Urdu the language of majority of Pakistanis but it was the Bengali and the latter should have been the *lingua franca*

nation and the Governor General of Pakistan, visited Dhaka where he reiterated that the Urdu would be the sole national language of the Pakistan.¹⁵ Mr. Jinnah's words equating an opposition to Urdu with treason were quite ominous¹⁶ and haunted the Bengalis to integrate themselves into the national state identity of Pakistan especially during the sequential order of political events of Zulfiqar Ali Bhutto's era. The Bengalis strongly protested against the statement of Mr. Jinnah as no Bengali, whether Muslim or Hindu, was ready to abandon his or her common literary and linguistic background.

The Bengalis resisted to the state's policy of undermining their language. On February 21, 1952, the mass discontent was at its climax when the Students of Dhaka University, along with other political activist, organized a protest to defy the state's policy of forcefully implementing the Urdu as a national language. The protesting students were shot dead by the police that not only provoked the widespread civil unrest but also it proved a culmination of ethnic-political conflicts between the two regions, the western regions emphasized on Urdu as the national language, and the eastern region, demanding Bengali to be accepted as co-national, language of Pakistan. Though, the Bengali was accepted reluctantly as a co-national language with Urdu in the Constitution of Pakistan, 1956, the suppression of Bengalis' ethnic identity proved forerunner of sub-sequential political demands of East Bengalis at national level. This event kept reminding to the Bengalis that never forget the dangers of their political or

of the country. For more discussion on the issue see, Tariq Rehman, *Language and Politics in Pakistan* (Karachi: Oxford University Press, 1996), 88-89.

¹⁵ He emphasized in the following words: "let me make it very clear to you that the State Language of Pakistanis is going to be Urdu and no other language. Anyone who tries to mislead you is the really the enemy of Pakistan. Without one State Language, no Nation can remain solidly together and function," Rounaq Jahan, *Pakistan Failure in National Integration* (New York: Columbia University Press, 1972), 43.

¹⁶ Craig Baxter, "Pakistan and Bangladesh," in *Ethnic Separatism and World Politics*, Frederick L. Shiels ed. (New York: University Press of America, 1984); 209-363, 218.

representational majority was under threat from the West Pakistanis who treated them as their colony in the political-constitutional arrangements ahead.

Subsequent to this well-remembered event along with economic-administrative disparities,¹⁷ the earlier demand of accepting their segmental autonomy or acceptance of their territorial cleavage was, now, transformed into what Lijphart terms as economic and political cleavages¹⁸ that is to highlight the territorial differences for political mobilization to demand some special constitutional arrangements or institutional designs, by the political elite of the East Bengal to demand for the segmental autonomy of the province and due regional representation at federal government or the federal parliament.

Parallel to these ethnic conflicts, the Constituent Assembly of Pakistan was ineffectually laboring for constitution-making processes. The Constitution of 1956 recognised the ethno-regional identity of the Bengalis by recognising the Bengali as a co-national language with Urdu but the democratic political majority of the Bengalis in the federal parliament was encroached through unnatural constitutional arrangements i.e., the One Unit Scheme of 1955 and political parity formula implemented in the two subsequent permanent Constitutions (1956 and 1962).

¹⁷ For details on disparities, see the figures given in, Graham P. Chapman, *The Geo-politics of South Asia: From Early Empires to India, Pakistan and Bangladesh* (Sydney: Ashgate Publishers, 2000), 196-201.

¹⁸ In political-sociology, the term cleavage is used to denote the citizens' divided on the basis of common religion, language, history, and culture. Political expressions of such cleavages are expressed through uniting the people of shared attachments for political demands that may, if not accommodated, result in ethnic and political conflicts. Arend Lijphart, *The Politics of Accommodation: Pluralism and Democracy in the Netherlands* (California: University of California Press, 1975), 16-59. The territory remains central in such cleavages for political arguments. George Anderson and Sujit Choudhary, "Territorial Cleavages and Constitutional Transitions: Political Mobilization, Constitution-Making Processes, and Constitutional Design," in *Territory and Power in Constitutional Transitions*, George Anderson and Sujit Choudhry eds. (Oxford: Oxford University Press, 2019), 374-75.

2.2 Politics of Political Parity in the Federal Parliament: Federalism as Constitutional Design, 1947-1971

Federalism, for political theorists,¹⁹ is considered possibly a constitutional arrangement that potentially suits to an ethno-regionally fragmented state. Federalism, accepts the territorial hierarchy or autonomy of the units or provinces. Historically, it is applied for internal ordering of the provinces through such a constitutional framework that not only accommodate the diversity in the constitution but also distribute power (legislative, administrative and fiscal) between the centre and the units. It is described as a ‘most geographically expressive form of all political systems.’²⁰ It offers a constitutional framework that not only balances the centripetal and centrifugal forces within a one state but also, in words of Hartshorne, it ‘binds together more or less separate and diverse areas into effective whole.’²¹ Putting more systematically, federalism is a constitutional arrangement where there exists, at least, two levels of government rule, central and regional, with same people and land²² and where powers between these two governments are divided in independent and coordinate way.²³

The political scientists may differ on the contexts²⁴ that contribute to adopt federalism as a constitutional arrangement but a consensus is developed on one point that it is adopted to

¹⁹ By changing their framework of analysis, they have referred to it as political system that accommodates the ethno-regional diversity. They include Livingston (1956), Wheare (1963), Riker (1975), Dahl (1983), Elazar (1987), Smiley (1987), Bryce (1988), Vernon (1988), Saunder (1989), Watts (1990), Olson (1993), Sharman, 1994), Verney (1995), Wayne (2000), and Karims and Norman (2005), Adeney (2007).

²⁰ K. W. Robinson, “Sixty Years of Federation in Australia,” *Geographical Review*, Vol 51, No. 1 (1961), 1.

²¹ As quoted in Ronan Paddison, *The Fragmented State: The Political Geography of Power* (Oxford: Basil Blackwell Publishers Limited, 1983), 97-98.

²² W. H. Riker “Six Books in Search of Subject, or Does Federalism Exist and Does It Matter?,” *Comparative Politics*, Vol 2 No. 1 (1969), 135-46.

²³ For more details see, K.W. Wheare, *Federal Governments* (Oxford: Oxford University Press, 1963).

²⁴ There are four set of factors that involve in adopting federalism as constitutional arrangement. For Riker, it is bargaining will of national leaders, to expand territorial control, and regional leaders, to secure economic-military protection that contributes to make federation. For Deutsch, it is set of nine conditions ranging from economic consolidation, political gains to internal ethno-regional diversity that contributes adopting federalism. For Wheare, it is previous political association, desire for independence form colonialism, geographically determined isolation and factors encouraging regional autonomy that necessarily unify different units into a federation. For Watts, the unifying factors include ‘community outlook’ based on (culture, race, language and religion), administrative

accommodate the ethno-regional differences of a fragmented state. How does federalism cope with territorially segregated ethnic groups and what is, in Duchacek's words, is the constitutional 'spirit of federal compact' for the interrelationship between the provincial and the federal governments?²⁵ Federalism does so by providing a formula for power sharing between the provinces and the centre; considering constituent units or regions 'equal before the constitution'; and developing a political compromise to resolve the issue of spatial conflicts over due political representation and distribution of economic wealth amongst the smaller and larger provinces.²⁶ It regulates the ethno-regional conflicts of political nature through political institutions i.e., introducing proportional representation of election or what Enloe claims other 'positive discriminations' giving equal representation to all provinces that is to say, in some cases, overrepresentation to smaller provinces in the federal second chamber, the representative of regional interests at federal level.

In case of Pakistani federation and its institutional designs, the emphasis was placed on what Stepan terms 'holding-together federalism' where the regions of diverse socio-cultural background were held together to unite them into one national government.²⁷ In theory, all the units of Pakistani federation were considered equal before the federal constitution. In practice, the highly marked and distinct economic and political disparities between the regions remained evident. The disadvantage of totally asymmetrical nature²⁸ of Pakistani federation, spatially and

convenience, geographical dispersion and historical identity. Paddison, *The Fragmented State*, 104-106.

²⁵ The questions are drawn on the discussion of Duchacek in his renowned works. I. D. Duchacek "External and Internal Challenges to Federal Bargain," *Publius*, Vol 5, No. 2 (1975), 41-76. See also, I. D. Duchacek "Antagonist Cooperation: Territorial and Ethnic Communities," *Publius*, Vol 7, No. 4 (1977), 3-29.

²⁶ Paddison, *The Fragmented State*, 107-128.

²⁷ Alfred Stepan, "Federalism and Democracy: Beyond the U.S. Model," *Journal of Democracy*, Vol 10, No. 4 (1999) 19-34. 19.

²⁸ Asymmetric federation is where there exists a considerable power imbalance between the provinces, although are considered equal before the constitution. C. D. Tarlton, "Symmetry and Asymmetry as Elements of Federalism: A Theoretical Speculation," *Journal of Politics*, Vol 27, No. 4 (1965), 861-74.

economically uneven patterns, proves unlikely to practice political and economic equality amongst all provinces. The high degree of asymmetry within the provinces threatened the stability of Pakistani federation because of its likelihood of greater vertical conflicts between the centre and the provinces and also horizontal economic-political disparities between the dominant and dominated provinces.

Federalism resolves such political conflicts through what the Constitution-makers of the States termed a multiple level of government to reduce the risk of tyranny of the one, individual, group or an institution.²⁹ The multilevel governments ensures that there is no permanent dominance of one region as well as that the interests of all minority groups are respected. The federation of Pakistan regulated territorial-political cleavages through unnatural constitutional arrangements³⁰ instead of devising institutional mechanisms to deal politically with the territorial differences of the provinces. To develop this argument related to the role of Pakistani federation in resolving or diffusing territorial-political cleavages, we need to recall the constitutional arrangements that were devised to conclude a political bargain over differences of political representation of the units at centre. What follows is a discussion on the constitutional formulas of Pakistani federation for political bargains that was concluded between the decision-makers to diffuse the territorial-representational differences of the provinces in the federal parliament.

²⁹ James Madison, *Federalist No. 51*, available at the Avalon Project, https://avalon.law.yale.edu/18th_century/fed51.asp, accessed September 17, 2023.

³⁰ The federation of Pakistan regulated the ethno-regional differences by forming a unnatural 'Pakistani Identity' achieved through Urdu as National Language and undermining the ethno-linguistic diversity. For more detailed discussion on it see, Katharine Adeney, *Federalism and Ethnic Conflict Regulation in India and Pakistan* (New York: Palgrave Macmillan, 2007).

2.2.1 The One Unit Scheme, 1955: Political Parity between the East and the West

The first political bargain concluded in line was an agreement on political parity between the two regions achieved through the One Unit Scheme of 1955. The One Unit,³¹ merged all the provinces and several princely states of western region of the country into one unit or province, the West Pakistan. After its implementation, Pakistan was comprised of two provinces now, the East Pakistan, earlier, the East Bengal, and West Pakistan, earlier the land four provinces and several princely states.³² This Scheme was to achieve political parity between the territorially uneven provinces or regions of the country in federal parliament. This formula suggested unicameral federal legislature as an institutional design where such political parity would be achieved by equal distribution of seats to both the regions or provinces.

The scholarship on the Scheme suggests three purposes behind its introduction: firstly, to keep the centre strong;³³ secondly, to suppress the cultural-ethnic heterogeneity of the provinces of the western regions;³⁴ and thirdly, to encroach the political majority of the East Bengalis.³⁵

³¹ On September 30, 1955, the Assembly passed the bill namely 'The Establishment of West Pakistan Act, 1955' declaring 'integration of provinces and states' of west zone 'into the West Pakistan'. The government was of the view that the formula would bring a national integrity and political stability in the country. It was, for government, to diminish the differences between the two zones. However, it did not prove so and the Bengalis took it as counterbalance or an alliance to underrepresent the principally larger population resulting in political domination of the East Bengal. The government used coercive measures to make this formula acceptable all provinces of west region. The formula remained controversial till its dissolution by General Yaha Khan in May, 1970. *The Establishment of West Pakistan Act, 1955 (The Gazette of Pakistan, October 3, 1955)*.

³² Before this Scheme, Pakistan was consisted of following administrative areas: (a) The five provinces, viz. East Bengal, Punjab, North West Frontier Region or N.W.F.P., Sind and Baluchistan. (b) The Federal Capital Area of Karachi. (c) The States which have acceded to Pakistan viz. Bahawalpur State, Khairpur State, the States (Kalat, Kharan, Mekran and Las Bela) of the Baluchistan States Union, and the States in the Frontier Regions (Dir, Swat and Chitral). (d) The Tribal Areas of the Frontier Regions. *The Census of Pakistan, 1951*, Vol. I, 21.

³³ The trend of centralization of powers was set by the Mr. Jinnah as the first, Governor General of Pakistan. For instance, the powers given under the 1935 and 1947 Acts, he could dissolve the provincial assemblies with the concurrence of provincial Governors. He brought a new Section 92-A to the Statute book providing him to *direct* the provincial governors to dismiss the assemblies. The strategy was of followed by the subsequent ruling elite, an alliance of civil-military bureaucracy dominated by Urdu speaking Muhajirs and Punjabis. For detailed discussion on Jinnah as Governor General of Pakistan see, Ayesha Jalal, "Inheriting the Raj: Jinnah and the Governor-Generalship," *Modern Asian Studies*, Vol 19, No. 1 (1985), 29-53.

³⁴ For some scholars, it was introduced to minimize the prospects of the mobilization of the smaller provinces' western region on the basis of ethnic identities and challenge the central authority by demanding greater provincial

The sole purpose that is directly relevant to our debate on political bargains for territorial cleavages is constraining the political majority of the Bengalis. As mentioned earlier that the concentration of population was in the eastern region, the East Bengal, and if the one man-one vote principle was introduced, there would have been more Bengalis in the national legislature than the Pakistanis from the eastern region. Another scheme for resolving the issue of representational disparity between the two region was a bicameral central legislature where in the Senate all the five provinces would be given equal representation. The equal representation to all or the overrepresentation to smaller provinces of the eastern region in the second chamber would exactly offset the majority of the Bengalis which they could have in the first chamber. Arguably, either of the parity plan, whether parity achieved the One Unit Scheme of 1955 or through the bicameral central legislature, was meant to undermine the political majority of the Bengalis. Such undemocratic political bargain was destined to remerge as a political issue on which the political mobilization could take place and where it would require repeated renegotiations- a cause of later secession of the East Bengal in 1971.

2.2.2 The Constitution of Pakistan, 1956: Parity in Unicameral Federal Parliament

On 23 March, 1956, the Constitution of Pakistan, 1956 was adopted as the first permanent constitution of Pakistan. It declared Pakistan as an Islamic republic. It provided federal-parliamentarianism as a constitutional arrangement. The territorial cleavages were managed

autonomy. Khalid B. Sayeed, *Politics in Pakistan: Nature and Direction of Change* (California: Praeger Publishers Inc., 1980).

³⁵ It was introduced to serve three-fold purpose; to balance the more populous and politically argumentative East Bengal; to fulfil the unity of the romance of the country's unity; and to minimize the chances of demand for greater provincial autonomy by the smaller provinces of the western regions. Sarah Ansari, *Life After Partition: Migration, Community and Strife in Sindh, 1947-1962* (Oxford: Oxford University Press, 2005).

through the political parity formula introduced earlier in One Unit Scheme. The Constitution introduced a unicameral federal legislature (the National Assembly) as an institutional design that was consisted of three hundred seats, half to be directly elected by the people of the East Pakistan and half by that of the West Pakistan.³⁶

The Bengalis agreed on the parity on the conditions that the federal government would ensure economic parity³⁷ between to two regions and measures would be taken to increase the number of Bengalis in the administrative services including military services of the country. The issue of language was resolved by giving Bengali, a co-national status with Urdu. A political compromise was made that the prime minister and the president would be from different regions though such assumption could not be technically accomplished due to the longer and stated term of the president. However, the first ever permanent Constitution, implemented after about turbulent nine years, could not live long. The life of the Constitution proved hardly two years as it only diffused the issue of territorial differences rather to provide a permanent democratic resolution to be accepted by the all stakeholders, the provinces. It proved to be another step forward for repeating the political renegotiations and political mobilization on the basis of territorial differences.

³⁶ And, 'in addition to these general seats, there shall, for the period of ten years from the Constitution Day, be ten seats to be reserved for women members only. Of whom five shall be elected by constituencies in East Pakistan, and five by the constituencies by the West Pakistan. And, the constituencies shall accordingly be delimited as women's territorial constituencies for this purpose'. *Constituent Assembly Debates, 1956*, Vol XXI., No. III., (The National Assembly of Pakistan), 11.

³⁷ It did not seem practicable as the private investment would largely come from the western region; it could increase the hold of western political elite over the economy of the eastern region. Baxter, "Pakistan and Bangladesh," 224.

2.2.3 The Constitution of Pakistan, 1962: Parity in Unicameral Federal Parliament

After imposing martial law, General Ayub (r. 1958-1959) abrogated the Constitution of 1956. He appointed a Constitution Commission giving a mandate to explore the causes of the failure of parliamentary system in Pakistan and to submit a constitutional scheme for a new constitution.³⁸ In May 1961, the Commission submitted its comprehensive report highlighting the causes³⁹ of the failure of parliamentary form of government in Pakistan. The Commission recommended a bicameral federal legislature as an institutional design where the upper house was to accommodate the territorial-political differences between the larger and smaller provinces. The final draft of the Constitution substantially ignored the recommendations of the Commission and introduced a federal-presidentialism with unicameral federal legislature, the Assembly. The membership of the Assembly was one hundred and fifty-six seats which were equally divided between the West Pakistan and East Pakistan.⁴⁰ The Constitution of 1962 was a product of one man, a military dictator General Ayub, who was not interested in engaging political actors to reach at a political consensus for accommodating the territorial differences of the provinces. Therefore, this Constitution also failed to provide a permanent solution to the territorial-political disparities of the regions.

³⁸ It was an eleven-member Constitution Commission chaired by Pakistan's former Chief Justice named Justice Shahabuddin. Out of rest ten members, five were from each zone. For details on its composition and working see, Justice Shahabuddin, *Recollections and Reflections* (Lahore: PLD Publishers, 1972).

³⁹ The reports concluded three major causes: lack of proper elections and defects in the late Constitution; undue interference by the Heads of the State with the ministries and political parties, and by the Central Government with the functioning of governments in the provinces; and, lack of leadership resulting in lack of well-organized and disciplined parties, the general lack of character in the politicians and their undue interference in the administration, *Report of the Constitution Commission, 1960* (Karachi: Government of Pakistan Press, 1961), 6.

⁴⁰ For details on its composition and powers of the Assembly see, M. Rashiduzzaman, "The National Assembly of Pakistan Under the 1962 Constitution," *Pacific Affairs*, Vol 42, No. 4 (Winter, 1969-1970), 481- 93.

2.3 Second Chamber as an Institutional Device for Regional Representation in Federal Parliament: Constitutional Debates and Political Constraints, 1947-1971

Despite the fact that probably all⁴¹ the constitutional arrangements of pre-1971 federation of Pakistan suggested a second chamber as an institutional design to overcome the issue of political disparity between the regions, it was not adopted as a chamber of regional representation at federal level. To develop the point why did the decision-makers could not reach at a political agreement to establish a second chamber, the differences over the rejection of such chamber by the two regions need to be evaluated.

The mention of second chamber as an institutional device to accommodate the territorial differences of the provinces are found in the records of pre-1973 constitutional history of Pakistan. The first Constituent Assembly of Pakistan adopted an adapted the Government of India Act, 1935 as an Interim Constitution of Pakistan. The Act and subsequent constitutional arrangements provided federal structure of the state.⁴² When it came to accommodate the territorial-political differences between the provinces, the Constitution-makers failed to reach at an agreement to introduce a second chamber as a chamber of regional representation at centre. It could not be materialized till 1973. The key issue that prevented the Constitution-makers to not introduce a second chamber was a conflict over political parity of the regions at federal level.

⁴¹ It includes the following constitutional proposals or drafts of the two permanent Constitutions, 1956 and 1962. The constitutional proposals that suggested establishing a second federal chamber as an institutional device for accommodating the representational disparities between the provinces are: two reports of the Basic Principles Committee of 1950 and 1952; The Bogra Formula of 1953; The Draft Constitution of 1956; and, The Constitution Commission of Pakistan, 1961. For details on these formulas see, G. W. Choudhury, *Constitutional Developments in Pakistan* (London: Longman Group Ltd., 1959).

⁴² The development of Pakistani federalism can be divided into three phases: first, the colonial legacy-formalizing the distribution of powers between the Centre and the provinces in 1935; second, pre-federalization phase (1947-1971)-concentrating the power with Centre and eliminating the federal structure from within the West Pakistan; and, the third, post-1973 onwards-characterized as a phase of federalism facing the challenge from centralist framework of state authority. Muhammad Waseem, "Pakistan: A Majority-Constraining Federalism", in Asma Faiz ed., *Making Federation Work: Federalism in Pakistan After the 18th Amendment* (Karachi: Oxford University Press, 2015), 19.

The concern between the two regions was the quantum of political representation at the federal parliament. The western region, led by the Punjab, was claimant of larger territory whereas the eastern region was the claimant of larger population. They both wanted their claims to be translated into their political representation in the federal parliament. The conflict over the representation at federal parliament between the eastern and the western regions or between the Punjabis and Bengalis forced Constitution-makers to reject the idea of bicameral federal parliament.⁴³ To develop this argument, the two reports of the BPC, a committee formed to suggest the guiding principles for future constitution, can provide sufficient evidence. For example, the first report of the Committee of 1950 was rejected by the Bengalis on the issue of their share of representation in the second chamber. Similarly, the second report of the Committee of 1952 was rejected by the Punjabis on the same grounds.

The first report of the Committee recommended a bicameral federal parliament where equal representation in the second chamber was suggested for all the provinces.⁴⁴ It also suggested that the powers of the both federal chambers would be equal. It recommended that in case of legislative conflict between the two federal chambers, it would be decided in a joint session of the both chambers through a majority vote of the members of the two houses. The Bengalis rejected such second chamber on the reason that if all the provinces were provided with equal representation in the upper house, it would not only undermine their overall majority in the

⁴³ Syed Azhar Ali, "Unicameralism in United Pakistan: Why and How", *Pakistan Horizon*, Vol. 48, No. 3 (1995), 69-80.

⁴⁴ The Report gave equal representation to all the federating units including Baluchistan in the house of Units or Upper House. However, the Report did not recommend representation of the Tribal or the Centrally-Administered Areas in the Upper House. The members were of the view that since these areas were not enjoying the status of provinces, they be represented only in the Lower House on the same basis as other Provinces. For details see, Basic Principles Committee, *Interim Report*, 7 September 1950 (Karachi: Din Mohammadi Press, 1950), 9.

bicameral parliament but also turn them into minority⁴⁵ in case of a joint session of the both houses. This criticism on the report forced the Committee members to reconsider the draft.

The second report of the Committee was presented in 1952. It also recommended a bicameral federal parliament. It introduced a political parity between the eastern region and the western region in the federal parliament. The seats of the first chamber were divided⁴⁶ equally between the two regions, two hundred for each. However, the two hundred allocated to western region was further divided among the provinces of the western region. It allocated sixty seats of second chamber to each region. The sixty allocated to western region were further divided⁴⁷ among the four provinces of the region. The Report recommended that the cabinet would be responsible to the first chamber only. And, the fiscal power would also rest with the first chamber. In case of conflict over legislation, it was to be decided in the joint setting of the both houses. This time, an opposition to bicameral federal chamber came from the Punjabis who perceived such political parity between the eastern region and the western region against the federal principle where the first chamber provide representation based on the population whereas the second chamber give equal representation to all the provinces irrespective of differences in

⁴⁵ They were of the view that the draft did not give East Bengal an overall majority on the basis of population in the Central Legislature and might it has converted them as a minority in a joint session of the Legislature. They argued that by giving equal representation to Baluchistan (having small faction of the total population) to East Bengal (having more than half of the total population of the country) was an unrealistic justification. They presented an alternative formula of republican government where there should have two autonomous regional governments for eastern and western units along with a central parliament giving representation on the basis of population to the units. The central parliament was to deal with defence, currency and foreign affairs only. They emphasized on the federal structure by considering the geographical position and uniqueness of East Bengal. Choudhury, *Constitutional Developments in Pakistan*, 71-73.

⁴⁶ The House of People was consisted of four hundred seats. Out of four hundred seats, two hundred were to be directly elected by the East Bengalis. Rest, two hundred were to be directly elected by the West Pakistan Units. The allocation of seats among the Units of the West Pakistan was as follows: Punjab, 90; Sind, 30; Baluchistan, 5; Baluch States, 5; North West Frontier Province (N.W.F.P.), 25; Khairpur, 4; Tribal Provinces Areas, 17; Bahawalpur, 13; and, Federal Capital, 11. Basic Principles Committee, 1952, *Constituent Assembly of Pakistan Debates (Official Report)*, 22 December, 1952, 14.

⁴⁷ Out of these 120 seats, 60 were given to East Bengal whereas rest of the 60 seats were distributed among the Units of West Pakistan and Federal Capital as follows: Punjab, 27; Sind, 8; N.W.F.P., 6; Tribal Areas, 5; Bahawalpur, 4; Baluchistan, 2; Baluchistan States, 2; Khairpur, 2; and, Federal Capital, 4 that makes total 60 seat for the West Wing of Pakistan. Basic Principles Committee, 1952, *Official Report*, 11.

population and size. They perceived this political parity between the two regions as a dominance of one province, the East Bengal, over the nine different units, four provinces and several states, of the western region.

Arguably, this controversy over the political representation in the federal parliament between the eastern region and western region or between the Bengalis and the Punjabis remained a key hurdle in adopting a bicameral federal parliament. The issue of political representation between the two regions was eventually diffused, for the time being, through the adoption of One Unit Scheme in 1955. The bicomunal⁴⁸ tendency of Pakistani federation to manage the regional representation at federal parliament in pre-1971 period was equated with in the words of Smiley the sense of ‘haves’, and ‘have-nots’⁴⁹ by the Bengalis and eventually used for separation in 1971.

For Philip Roeder, the probability of successful secessionist movements seems higher in the ‘segment states’, a state where different ethnic groups live and different territorial units of a state. He questions the conventional argument that provincial autonomy is an effective constitutional arrangement to resolve the ethnic and political conflicts within an ethno-regionally diverse state. He contends that the autonomy may further enhance the likelihood of inter-ethnic conflicts if not channelized by granting those groups the greater control over regional governments and to sufficient democratic political representation at the central government.⁵⁰ A sub-state or a province capable of uniting its people to raise a voice for collective good provides an opportunity to its political elite to for political mobilization and eventually demanding

⁴⁸ As the Pakistani federation’s constitutional arrangements could not resolve the issue of ethno-regional politics, it is termed as a bicomunal federation as the political mobilization between the two regions, the eastern and the western, turned into politics of two communities or regions. Watts, *Comparing Federal Systems*, 32.

⁴⁹ D. V. Smiley, “Federal-Province Conflicts in Canada,” *Publius* Vol 2, No. 24 (1974), 7-24.

⁵⁰ Mathew Hoddie, “Introduction: Segment States in the Developing World,” *Ethnopolitics*, Vol 13, No. 1 (2014), 1-12.

separation from the central authority. The apparent particularity of Bengalis as an ethnic group living in a segment state or province, home to a dominant Bengali ethnicity, contributed to the breakup of Pakistani federation and emergence of Bangladesh in 1971. In this case, it is a clear indication that although the Constitutions of 1956 and 1962 provided, to some extent, autonomy to the provinces but they failed to accommodate the differences of regional representation in federal parliament. The repressive and devolved autocratic nature of Pakistani federation dominated by the centralist political parties, the PML and the PPP, exacerbated the ethnic-territorial differences between the two regions and forced Bengalis to secede from the federation of Pakistan. To summarize the inability of pre-1971 Pakistani federation in terms of its role in resolving the issue of political-representational disparities between the different ethno-regional groups, it provided mere a waystation towards its eventual disintegration in 1971.

2.4 Territorial Cleavages and Regional Representation: Constitutional Design of the Constitution of Pakistan, 1973

The literature on the politics of territorial cleavages, where the territorial differences are transformed into political actions, suggests that such differences are accommodated in constitution by introducing new institutional designs or devices.⁵¹ The constitutional designs are shaped by what Anderson and Choudhary term the ‘constitutional moments’, a heightened political engagements for demanding territorial accommodation achieved through the change in the institutional designs.⁵²

⁵¹ For more details on the relationship between the territorial cleavages and federal institutional designs see, Ugo M. Amoretti and Nancy Bermeo, *Federalism and Territorial Cleavages* (Maryland: John Hopkins University, 2004).

⁵² Anderson and Choudhary, “Territorial Cleavages and Constitutional Transitions,” 374.

The two patterns of the political geometry of Pakistani state greatly influenced the unique constitutional moments in 1973 where a change in the constitutional and institutional design was occurred. Firstly, the political-territorial differences between the provinces convinced the Constitution-makers to continue with federalism as a constitutional arrangement to accommodate the ethno-regional diversity⁵³ of a divided nation. Secondly, a majority province, the Punjab larger in population and politically dominant province, motivated the smaller provinces to demand for special representation in the federal institutions to reflect their partnership in the federal policy-making processes.

One amongst other constitutional designs⁵⁴ to accommodate such territorial-political differences of the provinces and to ensure the post-conflict⁵⁵ sub-national representation at federal level is an introduction of federal second chamber that provides equal representation to all the provinces. Such demand from the smaller provinces shaped the institutional design of the federal parliament of Pakistan where the Senate was introduced as a federal institutional device to provide equal regional representation to the federating units. Such equal representation was actually a special concession to smaller provinces as they were overrepresented in the Senate.

⁵³ For role of the Senate in managing ethno-regional minorities see, Muhammad Mushtaq, "Empowering Ethnoregional Minorities and the Federal Bicameralism: Examining the Role of Senate in Pakistan," *FWU Journal of Social Sciences*, Special Issue, No.4 (Winter 2017), 1-11.

⁵⁴ It includes the symmetrical federalism or decentralization with majoritarian central government; highly devolved federal government with consociational central government; and, special autonomy for territories in federal state. Lijphart, Arend "Constitutional Design for Divided Societies," *Journal of Democracy*, Vol 15, No. 2 (April 2004), 96-109.

⁵⁵ Examples in case of those states that have given in sub-national regional representation in their post-conflict institutional designs are Senates of Italy and Spain. For details see, Russel, "The Territorial Role of the Second Chamber," 107.

2.5 The Senate of Pakistan as a Chamber of Provinces: Institutional Role and Design, 1973-2018

On August 14, 1973, the twenty-sixth Independence anniversary of Pakistan, the Constitution of 1973, the first one to be framed by the directly elected representatives, declared Pakistan as the Islamic Republic. It introduced federal-parliamentarism as a constitutional design and bicameral federal parliament as institutional device to accommodate the territorial-representational difference between the provinces. Abdul Hafeez Pirzada, the then law minister, elaborated the relationship between the of ethno-territorial differences of the country and a need of parliamentary federation as a constitutional arrangement in following words:

I say that Federalism is absolutely necessary; because we have got different languages, different cultures, different backgrounds and different scripts. Historically we have had these differences and peculiarities, whether he be a Punjabi or Baluch, whether he be Pathan or Sindhi or anyone speaking any of the languages spoken, he is always proud of his language, culture and background. So, by virtue of this we cannot have unitary form of government...that the best form of government that has suited Pakistan is the federal system, we have provided for a federal system and similarly, Sir, the parliamentary form of government.⁵⁶

2.5.1 The Territorial Chamber: Institutional Rationale

The most distinguishing feature of the Constitution of Pakistan, 1973 was the introduction of bicameral federal parliament where the Senate of Pakistan was established as a chamber of provinces. The provinces were given equal representation in the Senate irrespective of their territorial and population differences. In post-1971 federation of Pakistan, there existed a huge unequal distribution of the population among the provinces. For example, the Punjab was most populated province whereas the Baluchistan, the least populated Province. The Punjab dominated in the National Assembly where seats were distributed on the basis of population. This dominance of one province had created feeling of political disparity amongst the smaller

⁵⁶ *Constituent Assembly Debates*, (The National Assembly of Pakistan, April 08, 1973), 56-57.

provinces. The creation of the Senate as federal second chamber gave equal regional representation to all the provinces at federal level. Mr. Zulfiqar Ali Bhutto highlighted the territorial role and importance of the Senate that:

If you are to have federal constitution taking into account the composition of Pakistan, taking into account the geographical shape of Pakistan, taking into account the historical forces in Pakistan, it is absolutely necessary to have an Upper House to give it its necessary respect, its necessary due, its necessary place.⁵⁷

Similarly, Mr. Pirzada, explained the relationship between the territorial-representational differences between the provinces and the role of the Senate as a territorial chamber to resolve such political disparity in following words:

The Senate is most important introduction to the Constitution to provide for a truly and genuinely Federal form of Federal Constitution in the country notwithstanding the tremendous disparity in the population of various provinces ranging from 1.5. to 1.6. million in one province to 33 or 34 million people in the larger province. We have accepted the status of the provinces. The Federating Units are equally represented in the Upper House. Each Province has been given 14 seats in the Senate, irrespective of the population. Two seats have been reserved for FATA and two have been reserved for Federal Capital Area so as not to deprive any part of Pakistan from participation in the Senate or the Upper House.⁵⁸

He further explains the structure and constitutional role of the Senate as a chamber to represent the provinces equally. He elucidated that:

Let us have Bicameral Legislature - two Houses of Parliament –In the Senate we will have equal representation and in the National Assembly there should be representation according to population. Senate should only have delaying powers but matters which are not federal in character, but have something to do with the provinces, should be decided in the event of difference of opinion between the Senate and the National Assembly by a joint sitting of parliament which would considerable dilute the minority of the National Assembly.⁵⁹

The Law Minister's justifications in the advocacy of the Senate defines the role of the Senate as a chamber of provinces to represent their interests at federal level. Keeping in view the

⁵⁷ *Constituent Assembly Debates*, (April 02, 1973), 11-12.

⁵⁸ *Constituent Assembly Debates*, (April 08, 1973), 69.

⁵⁹ *Constituent Assembly Debates*, (April 08, 1973), 56.

statements of the Minister, the Senate was to serve twofold representation of the provinces: at vertical level, it was to promote the interests of the units in the federal legislature and the federal government; at horizontal level, it was to resolve the issue of territorial disparity from within the units by giving them equal representation in federal parliament.

The territorial role of a second chamber is to provide link between the territories or provinces and the federal parliament or national government. A second chamber facilitates linkage between the two tiers of government through three means: firstly, it plays this role by representing the interests of the provinces at federal level; secondly, it provides an institutional forum to provinces for debating the policies of the federal government; and, thirdly, it links the provincial assemblies to federal parliament.⁶⁰ The members of the Senate achieve this role of territorial representation through three ways: firstly, participating in debates on the floor of the Senate; secondly, voting on the ordinary legislation, federal budget and constitutional amendments; and, thirdly, scrutinizing legislation and holding investigations on provincial matters in committees.

2.5.2 Chamber of Equal Representation: The Composition, 1973-2018

The role of second chamber in representing the provinces gives it advantage of to be distinct from that of the first chamber in bicameral-federal parliament. The way its seats are distributed among the provinces remains a distinguishing characteristic of second chambers. The classic principle of equal representation of federating units in the second chamber is probably applied in

⁶⁰ Russel, "The Territorial Role of the Second Chamber," 109.

all the federal second chambers.⁶¹ The principle of equal representation of the provinces is applied to the Senate of Pakistan where the seats are equally distributed between the provinces.⁶²

In 1973 the seats of the Senate of Pakistan were forty-five divided equally among the four provinces of Pakistan. All these forty-five seats were general seats. The number of the seats was increased from forty-five to sixty-three seats in 1977. In 1985, the membership was raised from sixty-three to eighty-seven. In addition to general seats, the seats were reserved for technocrats and *ulema* and women in 1985. The next raise in the seats took place in 2002 when the seats were reserved for women resulting in the raise from eighty-seven to one hundred members. In 2010, under the Eighteenth Constitutional Amendment, four seats were reserved for non-Muslim minorities. The addition of minority seats raised the membership from one hundred members to one hundred and four members. With the merger of FATA into KP under the Constitutional Twenty-Fifth Amendment in 2018, the eight general seats allocated to tribal areas were excluded from the total membership of the Senate. Therefore, with this merger, the total membership of the Senate is reduced to ninety-six members. The description of seats allocated to the provinces and territories and changes into this allocation is shown in Table. 2.1.

⁶¹ Example in case are second chambers of America, Australia, South Africa and Russia.

⁶² Muhammad Mushtaq and Sultan Mubariz Khan, "Territorial Role of Second Chamber in Parliamentary Federations: Evidence from Pakistan," *FWU Journal of Social Sciences*, Vol 12, No.1 (Summer 2018); 114-22, 116.

Table: 2.1. The Composition of the Senate, 1973-2018

Serial Number	Year	Total Seats	Each Province	Federal Capital	FATA
1.	1973	45 ⁶³	General: 14	General: 2	General: 3
2.	1977	63 ⁶⁴	General: 14	General: 2	General:5
3.	1985	87 ⁶⁵	General: 14 Ulema/Technocrats: 5	General: 3	General: 8
4.	2002	100 ⁶⁶	General: 14 Ulema/Technocrats: 4 Women: 4	General: 2 Ulema/Technocrats: 1 Women: 1	General: 8
5.	2010	104 ⁶⁷	General: 14 Ulema/Technocrats: 4 Women: 4 Non-Muslim: 1	General: 2 Ulema/Technocrats: 1 Women: 1	General: 1
6.	2018	96 ⁶⁸	General: 14 Ulema/Technocrats: 4 Women: 4 Non-Muslim: 1	General: 2 Ulema/Technocrats: 2 Women: 2	Zero

Source: The researcher has drawn this table by consulting the Article 59 of Constitution of 1973 and changes made into it in the years between 1973 and 2018.

⁶³ Initially, strength of the Senate was forty-five members: each of the four provinces elected indirectly ten members; FATA three members; and, Islamabad, the Capital, two members. *National Assembly Debates (Constitution-Making)* (The National Assembly of Pakistan, April 8, 1973), 2310-11. For complete list and profiles of the Members see, *Who's Who in the Senate of Pakistan* (Islamabad: The Senate of Pakistan, n.d.).

⁶⁴ *The Constitution of Pakistan, 1973* as passed on April 10, 1973 (The National Assembly of Pakistan), Art. 59.

⁶⁵ Under the Provisional Constitutional Order, General Zia increased from earlier sixty-three members to eighty-seven members. Provisional Constitution Order dated March 24, 1981, [Art. 4 (1-2)], *The Gazette of Pakistan*, 24 March, 1981. The Order, for the first time, introduced a system of reserved seats for varied interest groups-*ulema* and technocrats. The term of the office of the Senators was also increased from, previously set, four years to six years.

⁶⁶ General Musharf introduced the Legal Framework Order, (LFO) that changed the composition of the Senate. The Senate's seats were increased from eight-seven to one hundred. Under the LFO, for the first time, President Musharaf reserved seats for women in the Senate of Pakistan. Legal Framework Order, 2002, Chief Executive's Order No. 24 of 2002, *The Gazette of Pakistan*, August, 2002.

⁶⁷ The Eighteenth Constitutional Amendment of 2010 increased the seats from one hundred to one-hundred and four. Under the Eighteenth-Amendment, for the first time, four seats were reserved for non-Muslims in the Senate of Pakistan. *Constitution (Eighteenth-Amendment) Act, 2010*, *The Gazette of Pakistan*, April 20, 2010.

⁶⁸ Under (Twenty-Fifth Amendment to the Constitution) of 2018 both the Provincially Administrated Tribal Areas (PATA) and Federally Administrated Areas (FATA) were merged into the Province of Khyber Pakhtunkhwa. The seats of the Senate were reduced from previously one-hundred and four to ninety-six as eight seats allocated to the FATA in the Senate were excluded from its total membership. Nonetheless, the incumbent Senators from FATA would have to complete their term expiring in March, 2024. After their retirement in March 2024, the FATA would not have a separate representation in the Senate of Pakistan. *Constitution (Twenty-Fifth-Amendment) Act, 2018*, *The Gazette of Pakistan*, June 05, 2018.

It is to say that although the subsequent governments brought changes into the total number of the seats, the basic essence of equal distribution of seats among the provinces has remained unchanged. The Senate of Pakistan was introduced as a territorial chamber to provide equal regional representation of all the units of Pakistani federation.

2.5.3 Chamber of Proportional Representation: The Election Method

The election method is one of the means to ensure a linkage between the provinces and the second chamber. The second chambers represent three distinct interests of its each constituent, the province: a. the provincial assembly; b. the provincial government; c. or the people of the province. Where it intends to represent people directly, it is elected directly by the people as it happens in in the case of American Senate. Although such direct representation of the people provides a second chamber with a democratic legitimacy, it likely minimises the linkage between the territorial institutions and the second chambers. Where it represents the territorial assemblies and the governments, it is indirectly elected as it is evident that the majority of the federal second chambers are elected indirectly. Such indirect representation of the provincial assemblies and the governments create a strong linkage between the provincial political institutions (assemblies or governments) and the second chambers.

The Constitution-makers in 1973 decided to introduce the indirect election system where members were to be elected through PR system by mean of single transferable vote (STV).⁶⁹ The philosophy behind constituting the Senate through indirect election by the Provincial Assemblies was to create a linkage between the provinces and the Senate as their representative chamber in

⁶⁹ *The Constitution of Pakistan, 1973 as passed on April 10, 1973, Art. 59.*

the federal government. Mr. Pirzada justified the election of the members of the Senate through indirect election by the Provincial Assemblies in the following words:

The election to the Senate shall be by indirect franchise. That is to say the Senate Members shall be elected by the Provincial Assembly because the Senate is the representative of the Provinces. Therefore, Senate has to be elected by the Provincial Assembly and by a single transferable vote.⁷⁰

The Minister further elaborated that the PR system along with STV was introduced to get reflected the strength of political parties in the Senate as proportional to their political strength in provincial assemblies. He opined that:

There must be representation of the parties in the Senate in the same proportion as they are represented in the Provincial Assembly. Therefore, by the single transferable vote the Senate shall comprise all parties represented in the Provincial Assembly.⁷¹

It is to say that the indirect election to the Senate through PR system along with STV provide equal opportunity to smaller and regional or provincial parties to send their members to the Senate for advancing their political interests at federal level.

2.5.4 Legislative Autonomy and Internal Structure

The complexity of a legislature primarily revolves around its internal features, committees, procedures and leadership. According to Blondel, there are three variables that indicates the legislative autonomy or symbolic authority of a legislature. Firstly, it is parliamentary immunity where the members enjoy the right to debate or make statement on any issue of public importance without the fear to be prosecuted. Secondly, it is procedural independence where a

⁷⁰ *Constitution Making Debates*, Vol II, No. 1-11, December 31, 1972, 11.

⁷¹ *Constitution Making Debates*, Vol II, No. 1-11, 11.

legislature can make its rules independently. Thirdly, it is its right to meet and adjourn combine with the freedom to determine the length of sessions.⁷²

2.5.4.1 Parliamentary Immunity

The members of the Senate participate in debating the matters of territorial and public importance, federal government policies and issues of national interests. Under the Constitution and the Rules of the Procedure, the members of the Senate enjoy some privileges and immunities. Under the Article 66 of the Constitution of 1973, the members of the parliament enjoy a right of freedom of speech and freedom of vote or choice. The Article reads that ‘there shall be freedom of speech in parliament and no member shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament.’⁷³

The Constitution and the Rules of the Procedure in the Senate provide immunity to the members not to be arrested in civil offense. The member can be arrested on grounds effecting the sovereignty and integrity of Pakistan. However, in each case, the arresting authority is bound to inform the Chairman of the Senate about such arrest, bail and arrest after bail etc. A magistrate or a competent authority which is to arrest or detain a member of the Senate is required to inform immediately the Chairman of the arrest and the detention along with the charge on which an arrest is made.⁷⁴ In addition, whenever a member is to be called for appearing before any commission, executive authority or a court, the concerned authority is bound to intimate the

⁷² J. Blondel, *Comparative Legislature* (Englewood Cliffs, N. J.: Prentice-Hall, 1977), 31.

⁷³ *The Constitution of Pakistan, 1973 as modified upto May 31, 2018*, Art. 66.

⁷⁴ *Rules of Procedure and Conduct of Business in the Senate 2012 as Amended upto April 11, 2018*, (The Senate of Pakistan), Rule, 79.

Chairman about the reasons and brief facts.⁷⁵ After the arrest of a member followed by trial, a concerned authority is required to intimate to the Chairman of the bail and release of or criminal charge of whatsoever the case is in the appropriate form described in the Second Schedule of the Rules of Procedure of the Senate.⁷⁶

Whatsoever the charge is, no authority can arrest a member of the Senate within the precincts of the Senate without a prior permission of the Chairman of the Senate.⁷⁷ In addition, any of court or a legal authority cannot serve any legal process against a member within the precincts of the House, the Senate. The Chairman of the Senate or of the Standing Committee can summon a member under custody of any court on any charge to attend the session of the House or of the Committee of which the member in detention is member of.⁷⁸ The Chairman of the Senate can issue a production order to the authority under which a member in custody has to be produced a Sergeant-at-Arms who is responsible to deliver back the member to concerned authority after the conclusion of the meeting of the Committee or the House, as the case may be.⁷⁹

2.5.4.2 Procedures

The Constitution provides the Senate with independence of and autonomy in framing its rules to conduct the House business. Article 67 of the Constitution reads that ‘Subject to the Constitution, a House may make rules for regulating its procedure and the conduct of its business.’⁸⁰ In

⁷⁵ *Rules of Procedure and Conduct of Business in the Senate 2012*, Rule, 79.

⁷⁶ *Rules of Procedure and Conduct of Business in the Senate 2012*, Rule, 80.

⁷⁷ *Rules of Procedure and Conduct of Business in the Senate 2012*, Rule, 82.

⁷⁸ *Rules of Procedure and Conduct of Business in the Senate 2012*, Rule, 84.

⁷⁹ *Rules of Procedure and Conduct of Business in the Senate 2012*, Rule, 84.

⁸⁰ *Rules of Procedure and Conduct of Business in the Senate 2012*, Rule, 67.

addition, it further provides that ‘any proceedings in the House shall not be invalid on the ground that some persons who were not entitled to do so sat, voted or otherwise took part in the proceedings.’⁸¹ The proceedings of the Senate are not to be questioned to or enquired into by the any court of enquiry. The Article 69 of the Constitution ensures the validity of the proceedings of the Senate. It reads that ‘the House shall not be called in question on the ground of any irregularity of procedure.’⁸²

2.5.4.3 Right to Meet and Adjourn

According to the Constitution, it is the President of Pakistan who may, from time to time, can summon and prorogue the session of the either House of the parliament or joint sitting of the both Houses as he deems fit.⁸³ Nonetheless, the Chairman of the Senate can also summon the session of the Senate on the requisition of not less than one-fourth of the total membership of the Senate. In this case, he can also prorogue the session of the Senate.⁸⁴

2.5.5 Committees

The second forum where the members can advance the territorial interests is the Senate committees where a detailed deliberation on legislative proposals take place. The committees perform the role of pre-legislative and post-legislative scrutiny in Senate business. The pre-legislative scrutiny takes place when a legislative proposal is referred to the committees to

⁸¹ *Rules of Procedure and Conduct of Business in the Senate 2012*, Rule, 67.

⁸² *Rules of Procedure and Conduct of Business in the Senate 2012*, Rule, 69.

⁸³ *The Constitution of Pakistan, 1973* Art. 51 (1).

⁸⁴ *The Constitution of Pakistan, 1973* Art. 54 (3).

deliberately discuss its (dis)advantages whereas post-legislative scrutiny is performed when the committees oversee the implementation of the legislation by the incumbent government. The committees also hold investigation on some matters of public importance. The Table. 2.2. enlists the standing, functional and special committees of the Senate of Pakistan.

Table: 2.2. Senate (Standing, Functional and Special) Committees

Standing Committees			
1.	Defence	16.	Railways
2.	Foreign Affairs	17.	Communications/ Postal Service
3.	Planning and Development	18.	Finance, Revenue and Economic Affairs
4.	Defence Production	19.	Textile Industry
5.	Petroleum and Natural Resources	20.	Industries and Production
6.	Religious Affairs	21.	Interior and Narcotics
7.	Parliamentary Affairs	22.	National Health Service, Regulations
8.	Ports and Shipping	23.	Information, Broadcasting and National Heritage
9.	Information Technology and Telecommunication	24.	Inter-Provincial Coordination
10.	Kashmir and Gilgat Baltistan Affairs	25.	Overseas Pakistanis and Human Resource Development
11.	Cabinet Division	26.	Science and Technology
12.	States and Frontiers Regions	27.	Federal Education and Professional Training
13.	Commerce	28.	Climate Change
14.	Law and Justice	29.	Housing and Works
15.	National Food Security and Research	30.	Water and Power
Functional/Special Committees		Others	
1.	Government Assurances	1.	Committee on Rules of Procedures and Privileges
2.	Human Rights	2.	The House Business Advisory Committee
3.	Devolution	4.	Senate Committee on Delegated Legislation
4.	Less Developed Areas	5.	Committee of the Whole

Source: The researcher has compiled this table by consulting the *Rules of Procedures in the Senate 2012*.

2.5.6 Leadership

In the Senate, there are four key leadership positions: the Chairman, the Deputy Chairman, the Leader of the House and the Leader of the Opposition. The Constitution of 1973 read with the Rules of the Procedure in the Senate define the role and mandate of all the four appointments or offices. What follows is a brief overview of the constitutional procedure to elect or appoint these leaders and their constitutional role as defined in the Constitution and the Rules of Procedure.

The most important appointment in the Senate is the Chairman of the Senate of Pakistan. After elections of the Senate, the members are required to elect through a secret ballot system a Chairman and Deputy Chairman in the very first meeting of the House before the start of any legislative business in the House. Under the Article 60 of the Constitution, ‘after the Senate has been duly constituted, it shall, at its first meeting and to the exclusion of any other business elect from amongst its members a Chairman and a Deputy Chairman.’⁸⁵ The tenure of office of both the Chairman and the Deputy is three year starting from the day on which they took the oath of the office.⁸⁶ The seven Chairmen of the Senate have served from 1973 to 2018.⁸⁷ The Chairman is expected, although nominated by a political party, to act above the party line as an impartial custodian of the House. The Chairman is to represent the Senate as its spokesperson. He is to protect the privileges and rights of the House and to maintain its authority. The procedural role of the Chairman is to chair the meetings of the House. In addition, he has to ensure that the legislative business is conducted in consistent with the rules and constitutional provisions as defined in the Constitution and the Rule of Procedure. He responds the members’ points of order

⁸⁵ *The Constitution of Pakistan, 1973*, Art. 60 (1).

⁸⁶ *The Constitution of Pakistan, 1973* Art. 60 (2).

⁸⁷ For details about their term of office and profiles see, The Senate of Pakistan Website, “List of Former Chairmen,” https://senate.gov.pk/en/former_leadership.php?type=1andcatid=261andsubcatid=262andcattitle=Chairman%20Office.

and gives rulings on procedures of the House when found necessary.⁸⁸ In addition, in the absence of or if the office of the President of Pakistan becomes vacant, the Chairman of the Senate acts as the President of the country.⁸⁹

After the Chairman, the position of the Leader of the House is of vital importance in the hierarchy of and to conduct the business of the House. In the Assembly, the Leader of the House is the Prime Minister whereas in the Senate, the Leader of the House means a member to be appointed by the prime minister to regulate government's business and represent to the prime minister in his absence from the House. In the Senate, the Leader of the House leads the treasury benches or a party in government.

In Senate, the Leader of the Opposition is a member to whom the majority of opposition members support for becoming their leader in the House. The Leader of the Opposition is declared appointed by the Chairman of the Senate. The role of the Leader of the Opposition is to lead the parties or the members who are in the opposition to treasury benches or the government members. The Opposition Leader regulates the business in the House on the side of the opposition. In addition, he/she represents opposition in the agenda setting and represents opposition on the forums where opposition is to play its constitutional role.

⁸⁸ For details on the election, powers and function of the Chairman and Deputy Chairman see, *Rules of Procedure and Conduct of Business in the Senate 2012*, Rules, 9-14.

⁸⁹ Article 49 Clauses 1 and 2 read that 'If the office of President becomes vacant by reason of death, resignation or removal of the President, the Chairman or, if he is unable to perform the functions of the office of President, the Speaker of the National Assembly shall act as President until a President is elected in accordance with clause (3) of Article 41. (2) When the President, by reason of absence from Pakistan or any other cause, is unable to perform his functions, the Chairman or, if he too is absent or unable to perform the functions of the office of President, the Speaker of the National Assembly shall perform the functions of President until the President returns to Pakistan or, as the case may be, resumes his functions. Pakistan, *The Constitution of Pakistan, 1973*, Art. 49 (1 and 2).

2.5.7 Assembly-Senate Relations

The relationship between the two chambers is shaped by relativity of the powers between the two chambers and difference in their representational base.⁹⁰ The Senate enjoys co-equal powers with the National Assembly in ordinary legislation and on amendment to the federal constitution whereas the powers of the purse or fiscal powers rest with the National Assembly only. The Senate is given only recommendatory powers on federal budget. The Assembly is constitutionally not bound to incorporate the recommendation of the Senate. However, on ordinary legislation, a bill needs to be passed by the both houses. In case of inter-cameral disagreement, it is taken in the joint sitting of the parliament. The constitutional amendment can be introduced in either of the house and it needs to be passed by the not less than two-third of the total membership of each chamber separately.

The second strands that shapes the relationship between the two houses is their representational base. The Senate is indirectly elected by the provincial legislature to represent indirectly the interests of the provinces whereas the Assembly is directly elected on the one-person-one-vote principle to represent the will of the people in the parliament. The indirect election method to the Senate has created the issue of perceived democratic legitimacy. It is this perception of democratic legitimacy that creates an imbalance of powers between the two chambers. Example in case is fiscal powers that are given only to the Assembly because it is directly elected chamber. In continuum of relationship between the two houses, the Assembly enjoys distinctly a superior position over the Senate.⁹¹

⁹⁰ Barbara Sinclair, "Coequal Partner: The U.S. Senate," in *Senates: Bicameralism in the Contemporary World*, Patterson and Mughan eds. (Ohio: Ohio State University Press, 1999), 50.

⁹¹ Hussain, *The Parliament of Pakistan*, 70.

2.5.8 Administration

The Governance of the Senate is comprised of three sections: financial administration; managerial administration; and, secretarial administration. In the following lines, the composition and functions of each section are discussed in brief.

The administration of the Senate is collectively consisted of Chairman, Finance Committee, Business Advisory Committee and Secretary Senate. The Constitution of 1973 provides a complete financial and administrative autonomy to the both chambers of the parliament. In financial matters, the Senate Finance Committee controls the expenditures of the Senate independently. The Committee is consisted of the finance minister and other Senate members to be elected as its members. The Committee makes the regulating procedures and controls the expenditures under the chairmanship of the Chairman Senate.⁹²

The head of the administration of the Senate is the Chairman of the Senate who directs and heads to the overall management of the Senate. Second to the Chairman, the Secretary Senate enjoys the position of Chief Executive of the internal administration of the House. The Secretary is responsible to the Chairman of the Senate. He heads the administration, financial appropriations and the secretariat of the Senate.

The Constitution provides for a separate secretariat for each House of the parliament of Pakistan. Under the Article 87 of the Constitution of 1973, the Senate of Pakistan can have its separate secretariat.⁹³ The Senate secretariat is consisted of administrative and secretarial staff.

⁹² *The Constitution of Pakistan, 1973*, Art. 88 (1-3).

⁹³ *The Constitution of Pakistan, 1973*, Art. 87 (1).

The Chairman ‘may, with the approval of the President, make rules regulating the recruitment, and the conditions of service, of persons appointed to the secretarial staff of the Senate.’⁹⁴

Looking at the constitutional design of Pakistani federation, it suggests that its character has remained as a majority-constraining federation. In its pre-1971 phase, it failed to accommodate the territorial differences between the provinces through institutional devices (a second federal chamber) to resolve the issue of political disparity in the federal parliament. The issue of political disparity between the eastern region and the western region was managed through political parity between the two regions. It constrained the majority of one province, the East Bengal, larger in population, through an unnatural parity formula by merging all the provinces of west region into One Unit Scheme of 1955. Such unnatural parity did not work and eventually led the dismemberment of Pakistani federation in 1971.

In the post-1973 phase, the issue of regional representation in the federal parliament emerged again as a bone of contention between the one larger province, the Punjab, and the smaller provinces. The makers of the new constitution realized the importance of the regional disparities and introduced the Senate of Pakistan as an institutional device to diffuse the majority of the one province, the Punjab, in the federal parliament. The Senate of Pakistan was introduced a chamber of provinces to advance the concerns of the provinces equally as it was ensured by giving equal representation to all provinces.

The constitutional role of the Senate as a territorial chamber is to represent the concerns of the provinces at federal level. Does the Senate of Pakistan live up to its expected role of regional representation or the representation of the provinces at federal level? It is argued that its

⁹⁴ *The Constitution of Pakistan, 1973*, Art, 87 (3).

effectiveness in its role of regional representation depends on whether its members enjoy a capacity (constitutional powers) to advance the concerns of their provinces whom they represent and to represent the administrative, legislative and fiscal concerns of the provincial governments with whom they are associated with. For that matter, it seems pertinent to measure the institutional strength of the Senate by looking at two variables, composition and powers, that define the institutional strength of a second chamber. In the next two chapters, the strength of the Senate of Pakistan is evaluated by looking at the two variables; powers and composition respectively.

Chapter 3

Institutional Strength and Capacity:

Constitutional Powers of the Senate of Pakistan

A federal second chamber, for political theorists, cannot effectively perform its constitutional role of representing the interests of the provinces until it is not clothed with sufficient institutional strength. The focus of this chapter is on the formal powers of the Senate of Pakistan. It situates its institutional strength in a comparative federal and parliamentary framework. In the first section, the formal powers of the Senate are described within the parliamentary regime type. It evaluates that what is its role in overseeing the policies of parliamentary executive, in federal legislation, and, in consenting to the federal budget. It looks at how the majoritarian parliamentarianism prevented it or encouraged it to put use of these powers; how the parliamentary executive dominates in its working; and how such dominance of parliamentary executive weakens its institutional autonomy and strength. Apart from explaining the relationship between the parliamentarianism and the institutional weakness of the Senate, this section also overviews the standard legislative practices and procedures that include the mechanisms for bicameral legislative reconciliation as they further the argument of executive dominance in parliamentary proceedings.

The second section of the chapter explains the character of Pakistani federation and its divergent implications for the institutional strength and actual working of the Senate as a territorial chamber. It discusses how the centralization of powers (legislative, administrative and

fiscal) at federal level has strengthened the position of parliamentary executive and lower house, the National Assembly, but weakened the Senate's institutional strength and its input as a chamber of provinces.

3.1 Parliamentarianism and Institutional Strength of the Senate: Origins and Implications

In 1973, the Constitution-makers discussed the institutional design of the federal constitution in which the Senate was designated as territorial chamber to represent equally the interests of the provinces at federal level. In considering the design of the federal parliament, they embedded the Senate within parliamentary form of government. The Constitution of Pakistan, 1973 implicitly restricted the mutual executive-legislative dependence on the National Assembly. The Constitution provided that the president, a ceremonial head of the state and representative of the unity of the republic, would summon and prorogue the parliament as he thinks fits from time to time¹ and he would also dissolve the Assembly on the advice of the prime minister,² the head of the government and member of the majority party in the Assembly. Similarly, the Assembly enjoys the powers of moving in and voting on the motion of no-confidence seeking the removal of the prime minister³ or the dismissal of the cabinet.

Following parliamentary general election, the president appoints the cabinet on the advice of the prime minister, the leader of majority party in the Assembly.⁴ The leader of majority party in the Assembly makes the government or the cabinet of ministers, prime minister as its head

¹ *The Constitution of Pakistan, 1973*, Art. 28.

² *The Constitution of Pakistan, 1973*, Art. 30.

³ *The Constitution of Pakistan, 1973*, Art. 95.

⁴ *The Constitution of Pakistan, 1973*, Art. 91.

who sits in the Assembly as a leader of the house.⁵ Similarly, the monopoly of the Assembly on financial matters or federal budget has conventionally⁶ held with the National Assembly and the finance minister also sits in the Assembly. In addition to the finance minister, the other federal ministers and parliamentary secretaries also sits⁷ in the Assembly. The majority of party leaders sit in the Assembly either on opposition benches or if they belong to government party, they assume the offices of key federal ministries. It is to say that it is a handful of members of the Assembly who dominates the state affairs and makes the policies either in opposition or in government capacity. Another factor that describes the parliamentary dominance of the Assembly is its size that is roughly three time larger than that of the Senate of Pakistan.

Such parliamentary framework indicates that the position of the Senate for the Constitution-makers was explicitly connected to the parliamentarianism where the executive and the first chamber dominate⁸ in the parliamentary procedures. In contrast to American model of presidential federation where a clear concept of separation of powers exists, the Pakistani Constitution-makers introduced a parliamentary federation where there exists entanglement of powers between the legislature and the executive. They introduced the Senate to diffuse the territorial-representational differences between the provinces rather to create a strong federal chamber to oversee the policies of the government. It seems that, constitutionally, they borrowed the federal principal of equal regional representation, as tall provinces were given equal representation, in the Senate from the American model whereas they depended on the British

⁵ *The Constitution of Pakistan, 1973*, Art. 91.

⁶ Although the cabinet is made collectively responsible to the Senate and the National and the one-fourth of cabinet ministers can also be Senators, Assembly alone enjoys the financial powers. *The Constitution of Pakistan, 1973*, read Art. 91 (6) with Art. 92 (1). Therefore, the finance minister spent most of his or her time in the Assembly.

⁷ Majority of the office-holders are taken from the Assembly amongst the members of the majority party. Therefore, they sit in the Assembly in their capacity as the member of the Assembly and they visit occasionally in the Senate to respond the questions of the Senators.

⁸ For institutional dominance of the executive see, Mahboob Hussain, "Parliament in Pakistan 1971-77 and Chief Executive: An Analysis of Institutional Autonomy," *Journal of Political Studies*, Vol 20, No. 1 (2013), 83-95.

model of second chamber, the House of Lords, that enjoys only complementary powers and where politically the dominance of the Commons, in the parliamentary procedures is evident in its legislative consequences. Thus, the economic prestige or the powers were rested with the Assembly as it reflects the popular will and the Senate enjoys only recommendatory financial powers. Such parliamentary framework suggests a clear dominance of the Assembly in the mutual executive-legislative relations.

The majority of the strong second chamber exists in presidential system as it operates in a clear separation of powers framework whereas the second chamber remain weak in parliamentary democracies as there exist an interminglement of powers between the legislatures and executive branch. The mutual dependence between the cabinet and the legislature results in a weak bicameralism in parliamentary regime type.⁹ In parliamentary system, it is so because the cabinet or the prime minister are politically accountable to majority of the legislature, the first chamber, and that the first chamber only enjoys the power to remove the cabinet or the prime minister by no-confidence vote. Conversely, in presidential system, the legislature cannot remove, except by impeachment, and the president cannot normally dissolve the legislature.¹⁰ Arguably, the choice between a presidentialism and parliamentarians in which a bicameralism is embedded has crucial implications for the institutional strength and design of a second chamber.

In presidentialism, the two chambers are composed distinctively but enjoy coequal powers. It does not create the issue of accountability as the president is not held accountable to the legislative branch the way an executive branch is held accountable to the legislature in a parliamentary democracy. Consequently, in presidentialism, the two chambers enjoy equal

⁹ Wolfgang C. Müller et al, "Parliamentary Democracy: Promise and Problems," in *Delegation and Accountability in Parliamentary Democracies*, Kaare Strøm et al. eds. (Oxford: Oxford University Press, 2004), 3-32.

¹⁰ Jean Blondel et al., "Legislative Behaviour: Some steps towards a Cross-National Measurement," in *Legislatures* Philp Norton ed. (Oxford: Oxford University Press, 1990), 186-208.

powers (legislative and budgetary) as there seems no institutional rationale for not giving equal powers to the second chamber.¹¹ Therefore, a second chamber operating in presidential systems play role as veto-players¹² as well as perform effectively in advancing the regional concerns by introducing legislation in federal parliament and actively participating in federal policy-making processes.

In parliamentarianism, in majority cases, the executive or the cabinet is held accountable by the first chamber that also provides a majority support to the executive. The first parliamentary chambers are largely directly elected on the principle of one-person-one-vote. Such compositional basis provides the first parliamentary chamber with an advantage of perceived democratic legitimacy. Thus, in the parliamentary system, the budgetary powers rest with the first chamber alone as the voting down on the federal budget is considered synonymous to the passage of no-confidence against the incumbent government. Therefore, the second chambers are deprived from the budgetary powers and powers to amend the appropriation bills to avoid any deadlock on budget that may eventually causes a constitutional crisis.¹³ Such deprivation of second chamber from budgetary powers and mutual dependence of accountability between the executive branch and the first chamber results in a bicameral asymmetry that does not exist in presidentialism. Regardless to say, the second chamber operating in parliamentary system often enjoy suspensive veto in which they can amend or delay the government bills. And, where they enjoy the legislative powers to initiate legislative bills by themselves, they are constrained by way of composition, discussed in next chapter, that makes them likely congruent

¹¹ Swenden, "Subnational Participation in National Decisions: The Role of Second Chambers," 106.

¹² For details on theory of institutional veto players see, George Tsebelis, *Veto Players: How Political Institutions Work* (Princeton: Princeton University Press, 2002).

¹³ For discussion on why the second chambers do not enjoy fiscal powers in parliamentary federations see, C. Howard and C. Saunders "The blocking of the budget and dismissal of the government," in *Labour and the Constitution, 1972-1975*, G. Evans ed. (Melbourne: Heinemann, 1977), 251-302.

with the first chamber. Arguably, the parliamentary second chambers generally behave as reactive rather active second chambers in advancing the concerns of the provinces at federal level.¹⁴ The Table. 3.1. explains the relationship between the regime type (parliamentary or presidential) and the institutional strength of a second chamber in three dimensions (political accountability, veto on federal budget and legislative powers in ordinary legislation).

Table: 3.1. Relationship between Regime Type and Bicameral Strength
(shaded area indicates bicameral asymmetry in power)

	Parliamentarianism		Presidentialism	
	First Chamber	Second Chamber	First Chamber	Second Chamber
1. Political accountability (censure leading to government resignation)	Yes	No	No	No
2. Veto on federal budget	Yes	No	Yes	Yes
3. General law-making powers	Yes	Yes	Yes	Yes

Source: Swenden, “Subnational Participation in National Decisions: The Role of Second Chambers,” 111.

The Table 3.1. suggests that a strong bicameralism (that is where, according to Lijphart, the second chamber enjoys co-equal powers) is characteristic of presidentialism whereas the power asymmetry between the two chambers is characteristic of parliamentarianism. It is so because the presidentialism accords constitutional powers to the executive and the legislative branches whereas the powers of the executive and the legislative branches are intermingled in parliamentarianism.¹⁵ It illustrates that separation of powers in presidentialism fosters autonomous senate coequal with the first chambers whereas the executive’s connection with the first chambers in parliamentarianism is likely to prevent a coequal and stronger second chamber. This assumption, in Pakistan’s case, also confirms that because of power interminglement

¹⁴ Swenden, “Subnational Participation in National Decisions,” 112.

¹⁵ Samuel C. Patterson and Anthony Mughan, “Fundamentals of Institutional Design: The Functions and Powers of Parliamentary Second Chambers,” *Journal of Legislative Studies*, Vol 7, No. 1, (2001); 39-60, 41-42. 46.

between the National Assembly, a popularly elected first chamber, and the executive's connection with the Assembly likely prevents the Senate to foster as an autonomous legislative body. Consequently, the Assembly's dominance in mutual executive-legislative relations restricts the Senate to enjoy coequal powers at par with the Assembly.

The constitutional role of the Senate of Pakistan is to safeguard the interests of the provinces at federal level.¹⁶ It is therefore argued that the effectiveness of the Senate in performing its role of representing the interests of the provinces depends on whether the senators enjoy sufficient powers to safeguard the interests (administrative and fiscal) of the provinces at federal parliament or the government. To elaborate this assumption, a look at the formal powers of the Senate and degree of power asymmetry between the Senate and the Assembly is explained in the next section.

3.2 Constitutional Powers: Asymmetric Second Chamber or Coequal with Restrictions?

The debate on distinction between an equal and unequal bicameralism is traditionally revolves around the conception of predominately division of powers between the two houses of a bicameral parliament. The discussion revolves around the two types of powers: first, the division of legislative powers (ordinary bills and amendment to the federal constitution; and, second, the powers to approve the federal budget including financial bills. The common feature of bicameralism is often highly idiosyncratic as the legislative role that a constitutional order attaches to defines the competence of a second chamber shapes decisively its functional

¹⁶ Kishwar Khan, "Bicameralism in a Federation: An Historical Analysis of Role of Senate in Promoting Federalism in Pakistan," *Pakistan Perspectives*, Vol 22, No.1 (2017);135-158, 138.

structure.¹⁷ The multi-dimensional conception of an unequal bicameralism can better be understood by contextualizing the complexity of power sharing between the two chambers and, more importantly, by exploring, historically, the traditional and constitutional role of a second chamber.

The second parliamentary chambers are classified into two categories with regard to relativity of constitutional powers dispersion between the two chambers: first, the symmetric second chambers where a second chamber enjoy coequal powers with that of first chamber; and, second, asymmetric second chambers where a second chamber is subordinate to the first chamber in constitutional powers.¹⁸ The Table. 3.2. shows the relativity of power distribution between the two chambers of some selected democracies.

¹⁷ Giacomo Delledonne, "Perfect and Imperfect Bicameralism: A Misleading Distinction?," *Perspectives on Federalism*, Vol 10, No. 2 (2018): 71-95, 73-74.

¹⁸ Patterson and Mughan, "Fundamentals of Institutional Design," 41-42.

Table: 3.2. Symmetry of Constitutional Powers of Second Chambers

	Argentine Senado			
	Australian Senate			
	Belgian <i>Sénat</i>			
	Haitian <i>Sénat</i>			
Italian Senato	India Rajya Sabha			British House of
Liberian Senate	Malysian Dewan		Austrian Bundesrat	Lords
Mexican Cámara	Negara		Canadian Senate	French <i>Séna</i>
de Senadores	Nepalese Rastriya		Czech Senat	Irish Seanad
Nigerian Senate	Sabha	Brazilian Senado	Jordanian Majlis	Eireann
Romanian Senatul	Pakistani Senate	Chilian Senado	al-Aayan	Japanese Sangiin
Swiss Ständerat	Philippine Senado	Columbian Senado	Netherlands Eerste	Russian Soviet
United States	South African	German Bundesrat	Kemar	Federastisii
Senate	National Council	Venezuelan Senado	Thai Wuthisapha	Spanish Senado
Co-equal with First Chamber	Co-equal with Restrictions	Limited Exclusive Power, Veto	Delay and Advisory	Subordinate to First Chamber

Source: Patterson and Mughan, “Fundamentals of Institutional Design,” 42.

The table 3.2 explains the second chambers that are constitutionally coequal with the first chambers are examples of symmetric chambers followed by second chambers that are constitutionally ‘coequal with restrictions’, they are restricted to amend or reject the financial legislation. The Senate of Pakistan falls in the second category as it is constitutionally coequal with the National Assembly on ordinary bills but it is restricted to amend or reject the money bills that are approved by the Assembly alone. Theoretically, the Senate of Pakistan was created

as a coequal legislative body but practically it does not seem, in the words of Patterson and Mughan, a robust or strong second chamber.¹⁹

3.3 Legislative Procedures

The asymmetry of the constitutional powers between the Senate of Pakistan and the National Assembly provides a base for assessing the legislative procedures to illustrate further the asymmetrical form of Pakistani bicameralism. The legislative bills that the Senate considers can be divided into three types; firstly, bills that seek an ordinary legislation, secondly, bills that seek an amendment to the federal constitution; and, thirdly, the financial bills.

3.3.1 Ordinary Bills

The original Constitution of Pakistan, 1973 divided legislative business into the Federal Legislative Lists, Part I and II, and the Concurrent List. A bill related to the matters enumerated in the Federal Legislative List (Part I), could only be introduced in the National Assembly and the Senate was given purely delaying powers on such bills. Mr. Abdul Hafeez Pirzada, the then federal minister for law explained the subject-matter of the legislative powers of the Senate in these words:

The first part of the Federal Legislative List shall originate in the National Assembly and if the Bill is passed by the National Assembly, it shall go to the Senate. The Senate may within ninety days either reject the Bill or accept the Bill or send it back with amendments. If the Bill is rejected, it shall be deemed to have been passed because it has only a delaying power in respect of purely Federal subjects.²⁰

¹⁹ Patterson and Mughan, “Fundamentals of Institutional Design,” 42

²⁰ *National Assembly Debates (Constitution-Making)*, [Official Report of the Second Session National Assembly of

The National Assembly was given exclusive powers, both introduction and passing, on the bill enumerated in the Federal List (Part I)²¹ whereas the Senate had only the powers to delay such bill.²² In case of rejection or proposing amendments to a bill by the Senate, the Assembly was required to reconsider the bill only but not bound to incorporate the amendments suggested by the Senate. After reconsideration, if the Assembly passes again the rejected or amended bill, the bill would be sent for an assent of the president without returning back to the Senate.²³

A bill related to the matters mentioned in (Part II) of the Legislative Lists and in the Concurrent List could be introduced in either of the House.²⁴ Mr. Pirzada further elaborated that:

In the Concurrent Legislative List or the Second Part of the Federal Legislative List, a Bill may originate either in the Senate or in the National Assembly. In both Houses, Bill can originate. If the Bill is passed in one House, it has to be transmitted to the other House. If passed by the both Houses, it will go up for assent.²⁵

In case of inter-cameral disagreement, that is to say rejected by one house but passed by the other, such bill shall be considered in the joint-sitting of the parliament where both the Assembly and the Senate together could debate and vote on it. Nonetheless, in a joint-sitting, the Senate is outnumbered by the Assembly that is almost three times larger than the Senate. It suggests that the Assembly dominates in the ordinary legislative business in the parliament.

The Eighteenth Constitutional Amendment of 2010, has altered greatly the legislative subject-matter of the Legislative Lists (Part I and II). Similarly, the Amendment has omitted altogether the Concurrent List where the various subjects are devolved to the provinces. After

Pakistan (Constitution-Making, 1972] Vol II, December 31, 1972, 11.

²¹ It was the President who had the final power to decide that whether the Bill fall under the Federal Legislative List (Pat I). For details see, *The Constitution of Pakistan as passed April 10, 1973*, Art. 70 (5).

²² For details on legislative procedure of a bill related to matters mentioned in the Federal Legislative List (Part I) see, *The Constitution of Pakistan as passed on April 10, 1973*, Art. 70.

²³ *The National Assembly Debates (Constitution-Making)*, [Official Report of the Second Session National Assembly of Pakistan (Constitution-Making, 1972)] Vol II, December 31, 1972, 11-12.

²⁴ Aslam Abdullah Khan, *First Senate of Pakistan: 1973-77* (Islamabad: Senate of Pakistan, 1980), 45.

²⁵ *The National Assembly Debates (Constitution-Making)*, Vol II, December 31, 1972, 12.

such alteration and omissions in the Legislative List mentioned in the Fourth Schedule of the Constitution, there exists no distinction of legislative powers between the Assembly and the Senate particularly on ordinary bills. A bill enumerated in Legislative List (Part I and II) can be originated in either of the House, the Assembly or the Senate. A bill may originate in either House, in case of passage by the originating House, it is transmitted to the other House which if passes it without any amendment, the bill is sent for the presidential assent which makes eventually a bill an act of the parliament.²⁶ In case of disagreement between the two houses on a bill, it is taken in a joint-sitting of the parliament where it is required to be passed by the majority votes of members present and voting.²⁷

It is not specified in the Constitution that within which time frame bills needs to be dealt with. Similarly, there is no specific institutionalized forum where a compromise on a bicameral disagreement can be reached out. What usually happens is that the leaders of the political parties or party whips of the both houses informally reconcile bicameral differences. Another trend in this regard is that majority of the bills rushed from the Assembly where the executive sits and where the majority party introduces government bills. The Senate generally respond to the government bills as compare to introducing its own.

3.3.2 Money Bills

The Senate of Pakistan does not enjoy powers on financial bills including the federal budget. The Assembly can initiate the money and finance bills and the Senate can only make

²⁶ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 70 (1).

²⁷ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 72.

recommendations only.²⁸ The Assembly is not constitutionally bound to incorporate the recommendations of the Senate on money bills. Why the Senate was not given say in money bills? The debate on Senate's role in money bills indicates that the Constitution-makers might had deprived the Senate from the financial powers on two reasons. Firstly, the Senate was indirectly elected, it did not represent directly the will of the people and lack political legitimacy. Secondly, the principle of equal regional representation overrepresented the smaller units and such overrepresentation was considered against the democratic principle where the majority enjoys the right to rule. Consequently, they took the position to adopt the principle of 'no taxation without representation.'²⁹ The prevention of the Senate from the financial powers was the result of parliamentary regime type where the powers of purse rest with first chamber as it is considered more legitimate chamber because of directly elected chamber.

Additionally, the vote down on the money bill is considered synonymous to no-confidence against the incumbent government and the government party, that is also a majority party in the first chamber. Arguably, the financial powers were rested with the Assembly to avoid any potential threat to the parliamentary majority of the Assembly in case of bicameral deadlock over a money bill. Mr. Hafeez Pirzada, while explaining the procedure for Money Bills, contended that 'a money bill shall originate in and be passed by the National Assembly. It

²⁸ Under the Legal Framework Order of 2002 (LFO), the Senate was empowered, for the first time, with recommendatory power over Money Bill including finance Bills. It provided that the Money Bill could only be introduced in the Assembly but the Assembly was bound to transmit it to the Senate which would give its recommendations over it within the seven days of its transmission. The Assembly was bound to consider the recommendations of the Senate but was not bound to incorporate the recommendations of the Senate. "Legal Framework Order, 2002, Chief Executive's Order No. 24 of 2002," *The Gazette of Pakistan, Extraordinary*, August, 2002, amendment to the Arts. 70 and 73 of the Constitution. For a detailed commentary and critique on the LFO of 2002 see, Mian Raza Rabbani, *LFO: A Fraud on the Constitution* (Karachi: Q. A. Publishers, 2003).

²⁹ In the Constitutional Accord of 1972, the Constitution-makers agreed on adopting the principle of 'no taxation without representation' in legislative procedure of the parliament which was eventually implemented in the permanent Constitution of 1973. They argued that that since the Senate did not directly represent the people; it was not principally legitimate to grant financial powers to it. For the text of the Accord and the Draft Constitution, see, *Constitution-making in Pakistan* (National Assembly of Pakistan, April 1975), 73-110.

shall not go to the Senate.’³⁰ Similarly, the Article 73 of the Constitution of 1973 reads that: ‘A Money Bill shall originate in the National Assembly and after it has been passed by the Assembly it shall, without being transmitted to the Senate, be presented to the President for assent.’³¹ The LFO of 2002, provided that though the money bill shall remain the jurisdiction of the National Assembly, the copy of the same, however, needed to be transmitted to the Senate which shall make recommendations on it with seven days of its transmission to it.³²

The post-Eighteenth Constitutional Amendment constitutional framework has increased the days to make the recommendation on a money bill from earlier seven to fourteen days. However, the Assembly can pass the bill with or without incorporating the suggestions made by the Senate. After passage of the money bill by the Assembly, the same is sent to the president for assent. Under the amended Article 73 of the Constitution of Pakistan, the procedure for a money bill is that:

A Money Bill shall originate in the National Assembly.... provided that simultaneously when a Money Bill, including the Finance Bill containing the Annual Budget Statement, is presented in the National Assembly, a copy thereof shall be transmitted to the Senate which may, within fourteen days, make recommendations thereon to the National Assembly....the National Assembly shall, consider the recommendations of the Senate and after the Bill has been passed by the Assembly with or without incorporating the recommendations of the Senate, it shall be presented to the President for assent.³³

For the purpose that which bill is a money or financial bill, the Article describes a bill shall be deemed as a money bill if it contains following matters:

A the imposition, abolition, remission, alteration or regulation of any tax; b. borrowing of money, or the giving of any guarantee by the Federal Government, or the amendment of the law relating to the financial obligation of the Government; c. the study of federal Consolidated Fund, the payment of money into, or the issue of money from, that Fund; d. the imposition of charge upon the Federal Consolidated Fund, or the abolition or alteration

³⁰ *The National Assembly Debates (Constitution-Making)*, 12.

³¹ *The Constitution of Pakistan as passed on April 10, 1973*, Art. 73 (1).

³² Legal Framework Order, 2002, *Gazette of Pakistan*, August, 2002), Art. 73.

³³ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 73-1.

of any such charge; e. the receipt of moneys on account of Public Account of the Federation, the custody or issue of such moneys; f. the audit of the accounts of the Federal Government or a Provincial Government; and, g. any matter identical to any matters specified in the preceding paragraphs.³⁴

Further, restriction on the financial powers of the Senate is imposed by giving conclusive powers to Speaker of the National Assembly to decide that ‘if any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the National Assembly thereon shall be final.’³⁵

Depriving the Senate from the financial powers has affected its working as territorial chamber in two ways: firstly, the Senate’s inability to amend or veto the money bill has likely made it play a secondary role in territorial representation at federal institutions; secondly, such deprivation of the Senate from the fiscal powers is a testimony to superiority of the Assembly that overshadowed the former in inter-cameral legislative relationship.

3.3.3 Constitutional Amendment

The constitutional amendment refers to the procedure of making alterations into the constitution or law by parliamentary processes. A constitutional amendment serves twofold purposes either modifying the existing law or making amendments to bills in process of their passage in a legislature. The Constitution of Pakistan prescribes very rigid procedure for a constitutional amendment which requires a special methodology to be followed since a constitutional amendment changes fundamentally the system of governing institutions and political structure of the country. The Parliament of Pakistan enjoys the conclusive power of amending the Constitution as it is enumerated that ‘Constitution may be amended by the Act

³⁴ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 73 (2).

³⁵ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 73 (4-5).

of Parliament.’³⁶ The Constitution-makers expounded equality of Senate with that of the National Assembly in amending the Constitution and vetoing to a constitutional amendment.³⁷ However, the power of initiating a constitutional amendment exclusively rested with the National Assembly only. Under the original Constitution of 1973, the procedure for a constitutional amendment was as follows: the National Assembly could initiate a Bill to amend the Constitution, if the Assembly passes the Bill by the two-third majority of its total membership and the Senate passes it by the absolute majority of its membership,³⁸ the Bill would be presented for Presidential assent. In case any amendment was proposed by the Senate to the Bill, the National Assembly had to reconsider the Bill; If the Senate did not pass the Bill within the ninety days of its receipt to the House, the Bill was considered to have been vetoed or rejected by the Senate.³⁹

During General Zia ul-Haq regime (r.1978-1988), the Senate of Pakistan was provided with the power to initiate, which earlier the National Assembly could introduce only, a bill seeking an amendment to the constitution. The Presidential Order of 1985, provided that ‘A Bill to amend the Constitution may originate in either House and when the Bill has been passed by the votes of not less than two-thirds of the total membership of the House it shall be

³⁶ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 238.

³⁷ In his speech on the Draft Constitution in the National Assembly (Constitution-making), Mr. Pirzada explains the equality of the Senate’s power in constitutional amendment that: “with regard to amendment of the Constitution, the Senate and the National Assembly have been given equal powers. Either the Senate or the National Assembly can veto.” He further contends that “The National Assembly has to consider the Bill if it passed by the National Assembly and sent to the Senate and the Senate rejects the Bill that is the end of the matter.” He adds further that “however, we have provided for reconsideration, if Senate proposes certain amendments, but of these amendments are again not accepted by the both Houses, then Constitution cannot be amended.” *The National Assembly Debates (Constitution-Making)*, 1972, 19.

³⁸ In his speech on the Draft Constitution in the National Assembly (Constitution-making), Mr. Pirzada explains majorities of the National Assembly and of the Senate required for passing a constitutional amendment Bill that: “And majority, absolute majority of 2/3rd of total strength of the National Assembly is needed to pass a Bill, any amendment of the Constitution, and an absolute majority of the total strength of the Senate is needed for passing the Constitution Bill.” *The National Assembly Debates (Constitution-Making)*, 1972, 19.

³⁹ *The Constitution of Pakistan as passed on April 10, 1973*, Art. 239.

transmitted to the other House.’⁴⁰ The Order gave equal powers to the Senate in the process of a constitutional amendment from initiating a bill, seeking amendment to the constitution, to its final consideration.⁴¹ There exists no restriction on the Senate to initiate a bill seeking a constitutional amendment. It may originate in either of the House. To amend the constitution, a bill needs to be passed by the two-third majority of each house separately. The procedure for a bill seeking constitutional amendment is that if it is passed by the both houses in an identical form, it is presented for the presidential assent which makes it a law or the act of the parliament. Under the Constitution, both houses, the Assembly and the Senate, enjoy the powers of rejecting or proposing amendments to the bill to be introduced for a constitutional amendment. Similarly, both the houses are bound to consider the proposed amendment of each other on a bill failing which would lead to altogether rejection of the bill.⁴² Nonetheless, a constitutional amendment which may affect the powers of the province cannot be assented by the president ‘unless it has been passed by the Provincial Assembly of that Province by the votes of not less than two-thirds of the its total membership.’⁴³ A constitutional amendment passed by the parliament cannot be called into question at any forum on any ground as it is enumerated in the Constitution that ‘no amendment of the Constitution shall be called in question in any court on any ground whatsoever.’⁴⁴

⁴⁰ *Revival of the Constitution of 1973 Order, 1985, (Gazette of Pakistan, March 2, 1985), Art. 239.*

⁴¹ For more details on the enhanced role of the Senate under the Eighth Amendment see, Kausar Parveen, “The Constitutional and Political Dimensions of Eighth Amendment,” Vol 21, No. 1, (2000), 67-92.

⁴² *The Constitution of Pakistan as modified up to May 31, 2018, Art. 239.*

⁴³ *The Constitution of Pakistan as modified up to May 31, 2018, Art. 239 (4).*

⁴⁴ *The Constitution of Pakistan as modified up to May 31, 2018, Art. 239 (5).*

3.3.4 Approval of Presidential Ordinances

An ordinance is referred to a law or decree set forth by a governmental authority. In Pakistan, legislative proposals to be laid in the parliament are of two types: the first falls under the category of afresh bill seeking for a new law altogether or changing the existing one; the second type of legislation to be considered in parliament is presidential ordinances to enact a law but require a prior passage of the parliament to become a permanent law or an act of the parliament. The president of Pakistan is constitutionally authorized to promulgate ordinance when the parliament⁴⁵ is not in session. Under the Constitution, it is provided that: ‘the President may, except when the [Senate or] National Assembly is in session, if satisfied those circumstances exist which render it necessary to take immediate action, make and promulgate an Ordinance as the circumstances may require.’⁴⁶ Although such presidential ordinance enjoys same effect and force as act of the parliament; it needs an approval of the Assembly⁴⁷ and the Senate⁴⁸ for further extension or to enjoy the status of a legislative bill formally to be laid before the Assembly or the either House. If either of the House, within their prescribed jurisdiction mentioned in the

⁴⁵ The original Constitution provides that the President can promulgate an Ordinance when the Assembly was not in session. There is not mention of promulgating an Ordinance when the Senate was in session. An Ordinance related to the matter enumerated in the Federal Legislative List (Part II) and the Concurrent List were to be laid before the both Houses whereas the Ordinances related to matters related to Federal Legislative (Part I) were to be laid before the National Assembly only. *The Constitution of Pakistan as passed on April 10, 1973*, Art. 89.

⁴⁶ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 89 (1).

⁴⁷ Such Ordinance needs to be laid before the National Assembly if subject-matter of it deals with Money Bill. It would stand repealed either the expiration of one hundred and twenty days from its promulgation or prior to the expiration of such period the Assembly passes a resolution of its disapproval. However, the Assembly can give approval to such Ordinance for further extension for the one more period of one hundred and twenty days. It is not note that the Assembly can disapprove before given extension before expiration of such extension. The Assembly, however, can give extension only for once. *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 89 (2-a-i).

⁴⁸ Such Ordinance can be before the both the Houses, either Senate or the Assembly, if subject-matter of it deals with other than Money Bill or an Ordinary legislative proposal It would stand repealed if either the expiration of one hundred and twenty days from its promulgation or if prior to the expiration of such period either House passes a resolution for its disapproval. However, either House can give approval to such Ordinance for further extension for one more period of one hundred and twenty days. It is not note that the either House can disapprove it before expiration of such extension. The House, however, can give extension only for once. *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 89 (2-a-ii).

Constitution, disproves presidential ordinance, it would stand repealed. In addition to disapproval by the parliament, the president, at any time, can also withdraw the ordinance by his order.⁴⁹ The Senate enjoys, except for ordinances dealing with money bills, equal legislative powers on approving presidential ordinances with that of the Assembly.

3.3.5 Joint-Sitting of the Parliament

In Pakistani parliamentary bicameralism, the National Assembly and the Senate, as two legislative houses, complements each other in parliamentary procedures. The constitutional framework for parliamentary procedures suggests the process of shuttling bill back and forth to resolves the conflict between the two chambers or bill is considered in a joint session of the parliament in case of inter-cameral disagreements. The parliament takes up the legislative proposals in its two distinct Houses, the Senate and the National Assembly, in their separate sittings. The joint-sitting of the parliament is held to resolve the inter-cameral conflict, if emerges between the two Houses, over a legislative proposal. In addition, the joint-sitting is held to validate the presidential ordinances and promulgations. Similarly, the joint-sitting serve the purpose of considering the resolutions mentioned in the Constitution. The President, after consulting the Speaker of the Assembly and Chairman of the Senate, has made rules, *Parliament (joint sittings) Rules, 1973*, which provides a procedure of the joint sitting of the parliament and communications between two chambers.⁵⁰

The subject-matter of the legislative business to be debated in a joint sitting is revolved around two themes: firstly, the inter-cameral conflict resolution between the two Houses over a

⁴⁹ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 89 (2-b).

⁵⁰ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 72 (1).

legislative bill; and secondly, considering the resolutions, approving or disapproving the presidential ordinances and proclamations and removing or impeaching the president, mentioned in the Constitution. Further, in a joint sitting, the president addresses, after every general election held to the Assembly and commencing of each parliamentary year, to explain the purpose of summoning of the parliament.⁵¹ The president may summon a joint sitting of the parliament in exercise of his powers⁵² provided in the Constitution. The Speaker of the National Assembly may also summon a joint session of the parliament by exercising his or her powers⁵³ given in the Constitution.⁵⁴ In the joint sitting, the quorum for legislative business is one fourth of the total membership of the both Houses.⁵⁵ In a joint sitting of the parliament, all decisions are taken ‘by the votes of majority of the members present and voting.’⁵⁶

3.4 Readings of Bills

A bill to become law goes through mainly three readings. In the first reading, a discussion on the principles of a bill is held. The second reading of a bill considers a bill clause by clause. In the third and final reading, voting on a bill takes place to get it passed from the Senate of Pakistan.

⁵¹ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 56 (3).

⁵² The President may summon a joint sitting under Articles 54 (1) and 232 (7) of the Constitution. The former Article reads that ‘the President enjoys the power, from time to time, to summon either of the House or both the Houses in joint sitting and may also can prorogue the parliament’ whereas the latter read that the President has to summon a joint sitting where a Proclamation of Emergency, within thirty days of its issuance, would be laid before the parliament’ for its approval. *The Constitution of Pakistan as modified up to May 31, 2018*, Arts. 53 (1) and 232 (7).

⁵³ The Speaker of the Assembly may summon a joint sitting under Article 41 (3) read with Para II of the Second Schedule of the Constitution to hold the election of the President. In addition, the Speaker can summon a joint sitting of the parliament to remove or impeach the President. The Speaker is bound to summon the joint sitting not earlier than seven days and not later than fourteen days of receiving a notice for the same. *The Constitution of Pakistan as modified up to May 31, 2018*, Arts. 41 (3) read with Para II of the Second Schedule and 47 (5).

⁵⁴ In either of the case, the Secretary of the Assembly has to publish the notification stating the place, date and time of the meeting along with informing each member of the parliament about the particular of the called joint sitting. *The Parliament (Joint-Sitting) Rules, 1973* (Islamabad: The Senate of Pakistan, 2012).

⁵⁵ *(Joint-Sitting) Rules, 1973*, Rule, 5.

⁵⁶ *The Constitution of Pakistan as modified up to May 31, 2018*, Arts. 72 (4).

3.4.1 Bill First Reading: Discussion on the Principles of Bills

At this stage, a discussion on the principles of a bill takes place. The discussion revolves around general provisions of the bill, without moving amendments, to explain the provisions of the bill. The members, however, may serve a notice for amendments, if there is any. The discussion ends by moving a motion requesting a leave to formally introduce the bill in the Senate at this stage.

3.4.2 Second Reading: Clause by Clause Consideration of Bills

After adoption of a motion for considering a bill, the Senate takes the bill clause by clause. The members may propose amendment to each clause, if any, at this stage. The bill is put for its adoption in the Senate for its adoption as clause by clause; along with amendments if there is any, by a majority vote.

3.4.3 Third Reading: Passing of Bills

At this stage, the member in-charge moves a motion to pass the bill or an amended bill, as the case may be, in the Senate. The members may support or oppose the bill at this stage without moving, except for grammatical and technical corrections, any amendment into it. At the conclusion of the debate, the chairman puts the bill before the Senate for its adoption. If the Senate passes the bill with the majority of members present and voting, the copy of the same is sent to the Assembly. The process of becoming a bill an act of parliament ends with the passage of the bill by the both Houses followed by the assent of the president.

3.5 Legislative Practice in the Senate: Institutional Strength Assessed

The parliamentarianism where the sway of institutional power rests with the National Assembly, raises many questions to be considered regarding the legislative and political activity of the Senate of Pakistan. Firstly, in majoritarian parliamentarianism, the directly elected National Assembly enjoys an advantage of political legitimacy. This legitimacy not only allows a majority party in the Assembly to form the federal government but also give it a fair go to implement its policies without any substantial resistance from any group in the house. Such predominance of the executive branch or the Assembly in policy-making processes overshadows the institutional role of the Senate in the parliamentary procedures.

Secondly, an indirectly elected orientation of the Senate combined with equal regional representation, that is to say overrepresentation of the smaller provinces, has weakened the Senate's political legitimacy to challenge or resist the predominance of the Assembly, a directly elected house, in the parliamentary procedures. The Table. 3.3. explains the power asymmetry between the Senate of Pakistan and the National Assembly of Pakistan by looking at its relations with the regime type that is majoritarian parliamentarianism in Pakistan.

Table: 3.3. Institutional Strength (with regard to powers) of the Senate of Pakistan in Regional Representation

Regime Type	Composition	Powers	Bicameral Strength	Significance for Regional Representation
Parliamentary	Indirectly elected by provincial assemblies	No votes of confidence in government; no right to introduce or amend money bills (only can make recommendation); right to introduce amend ordinary bills,	Co-equal with restrictions; Moderately strong	Moderate
	Equal regional representation	but intercameral disagreement to be decided by the majority vote in joint sitting;		
	<i>Distinctiveness: High</i>	right to introduce, amend and reject a bill seeking constitutional amendment.		

Note: The researcher has drawn this table by borrowing the indicators of bicameral strength from Wilfried, “Subnational participation in national decisions”, 107-11. For instance, assumption of ‘moderately strong’ in bicameral strength and ‘moderate’ in performing the regional representation is based on the Wilfried’s classification as he put term those second chambers moderately strong in bicameral strength and moderate in regional representation that has no right to introduce or amend the money bills and do not participate in vote on confidence against government. However, the data on the institutional strength of the Senate of Pakistan is retrieved by the researcher by consulting the relevant Articles (cited above in the sections dealing with the powers and procedures of the Senate) of the *Constitution of Pakistan, 1973*.

3.6 Centralized Character of Pakistani Federation and Institutional Position of the Senate of Pakistan

The degree of policy (dis)entanglement between the federation and the federating units defines the nature of federalism. Considering the power-sharing formula, the political theorists divide federations into two types; ‘dual’ or ‘cooperative’. Theoretically, in dual federations, the strong policy disentanglement exists between the provinces and the federation whereas in the cooperative federations, there exists a high degree of policy entanglement between the provinces and the federation. Arguably, the higher the degree of policy-dependence between the provinces

and the federation, the higher the need for an intergovernmental cooperation between the two levels.⁵⁷

The continuum of a cooperative or dual federalism can conceptually be illustrated by measuring policy entanglement at three levels or dimensions: firstly, the degree of centralization of *legislation* at federal level; secondly, level of *financial* entanglement between the provincial and the federal governments; thirdly, the extent to which the entanglement of administrative and law-making functions have been divided to the same or between the provincial and the federal governments.⁵⁸ The dependency of the provincial and federal government on each other in law-making and joint policy-programs require a significant intergovernmental cooperation.⁵⁹ Considering this three-dimensional framework that explains the degree of policy (dis)entanglement between the federation and the provinces, this section analyses the constitutional role and institutional position of the Senate of Pakistan as a representative of the provinces at federal level.

Looking at the constitutional formula that divides the administrative and fiscal policy-powers between the provinces and the federation suggests that the cooperative federalism is practised in the Pakistan as there exists a policy entanglement between the federal and the province level.⁶⁰ In such institutional environment, the Senate operates as a mediator-political institution between the provinces and the federation to advance the interests of the provinces.

The federation of Pakistan has witnessed significant institutional changes since its adoption as a constitutional design in the first Constitution of Pakistan, 1956. What, however,

⁵⁷ For details discussion on the intergovernmental relations in federations see, Nice, *Federalism*. Martin's Press, 1987).

⁵⁸ Swenden, *Federalism and Second Chambers*, 43-44.

⁵⁹ Klatt, "Centralizing Trends in Western German Federalism", 40-58.

⁶⁰ For discussion on intergovernmental relations between the two levels of government see, Syed Jaffar Ahmad, "Intergovernmental Relations in the Federal System of Pakistan", in *Making Federation at Work: Federalism in Pakistan After the 18th Amendment*, in Asma Faiz ed. (Karachi: Oxford University Press, 2015); 97-120.

has remained unchanged is its character of centralization with regard to distribution of powers between the provinces and the centre. The key strain between the two levels of government has been over the regional representation in the central political institution (the federal parliament) and equitable redistribution of economic resources amongst the federating units.⁶¹ At independence in 1947, ethno-political differences between the provinces combined with the predominance of civil-military bureaucracy not only protracted the constitution-making processes till 1956 but also shifted the locus of power at the centre. On the name of national integration, the successive political-constitutional arrangements have provided justification for accumulation of power at the centre. The pre-1971 constitutional arrangements such as One Unit Scheme of 1955, the viceregal nature of the Constitution of Pakistan, 1956 and the dictatorial-presidential scheme of the Constitution of Pakistan, 1962 all were meant to make the centre stronger which eventually led to the collapse of Pakistani federation in 1971.⁶²

The sway of administrative-fiscal powers has been remained with the centre in all the constitutional arrangements. The Constitution of Pakistan, 1956 divided subjects between the centre and provinces into three lists (the federal, the concurrent and the provincial). The centre dominated as its law would prevail in case of 'inconsistency between the laws made by the Parliament and laws made by the Provincial Legislature.'⁶³ Similarly, the centre continued penetrating into the matters fall under the concurrent list under the Constitutions of 1962 and 1973.

⁶¹ Katharine Adeney and Filippo Boni, "Federalism and Regime Change: De/centralization in Pakistan-1956-2020," *Regional and Federal Studies*, Vol 32, No. 1 (2020); 1-29, 1.

⁶² Amongst others, one of the main reasons behind the disintegration of the Pakistani federation was its centralized character that was meant to 'make the centre stronger'. S. M. Zafar, *Senator S M Zafar Ki Kahani Un Ki Apni Zubani* (Lahore: Sagar Publisher, 2010), 136.

⁶³ *The Constitution of the Islamic Republic of Pakistan, 1956 as passed by the Constituent Assembly of Pakistan on February 29, 1956*, Art. 110.

3.7 The Distribution of Legislative and Administrative Powers Between Federation and Provinces: The Senate's Institutional Position

The federal nature of the Constitution of Pakistan, 1973 continued with centralization policy as it was manifested in the constitutional formula of division of powers (legislative, administrative and fiscal) between the centre and the provinces before the Eighteenth Constitutional Amendment. The Amendment was a moderate effort to devolve the powers to the provinces as it abolished the concurrent list and empowered provinces to borrow loans and provided them with the equal ownership of mineral resources. It also shifted forty out of total forty-seven subjects, previously part of concurrent list, to the provinces.⁶⁴ However, the intended results are not achieved as the centre still controls the provinces through 'bureaucratic centralism', the federal government controlled civil bureaucracy.⁶⁵ The post-Eighteenth Constitutional Amendment formula distributes legislative and administrative matters into two lists; the Federal Legislative List I and the Federal Legislative List II.⁶⁶ The jurisdiction of the federal government lies on the former whereas the provincial governments can legislate on the latter one. However, despite the fact the concurrent legislative list has been deleted, the federal government's legislation would prevail, if case of a contradiction between the federal and the provincial laws.⁶⁷

3.7.1 Administrative Relations: The Council of Common Interests

Under the Federal Legislative List II, that is jurisdiction of the provinces, provides for an intergovernmental institution, the CCI that provides a forum where the conflicts between the

⁶⁴ Katharine Adeney "A Step Towards Inclusive Federalism in Pakistan? The Politics of 18th Amendment," *Publius*, Vol 42, No. 4 (2012), 539-565.

⁶⁵ M. Wassem "Federalism in Pakistan," *Forum of Federations* (2010), 12, accessed on October 01, 2023, <https://www.forumfed.org/pubs/Waseem-Fed-Overview.pdf>.

⁶⁶ For details on the sub-matter of two lists see, Fourth Schedule of the Constitution of Pakistan, 1973.

⁶⁷ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 143.

federal and provincial government are discussed and resolved. It consists of the chief ministers of the provinces and three representatives of the federal government with prime minister as its chairman. It is accountable to the federal parliament and bound to present its annual report to each house separately.⁶⁸ It primarily regulates the matters come under the Federal Legislative List II, that deals with subjects of the provinces, and it oversees institutions those are related to these subjects. The provinces can request the prime minister to call a meeting of the Council to discuss any matter of urgency. The provincial governments can also make complaints regarding the distribution of water and electricity.⁶⁹ The parliament, in its joint sitting can also give directions, through the federal government, to the Council on a general or a particular matter for a due action and such directions are binding on the Council.⁷⁰ Precisely, it is an institutional mechanism for resolving the administrative disputes between the centre and the provinces as well a forum for the latter to advance their concerns at federal level.

Looking at the functions of the Council, it provides the Senate with a forum to advance the concerns of the provinces at federal level in two ways; firstly, it can influence the policies of the federal government in the favour of the provinces by debating and overseeing its annual reports; secondly, it can raise the concerns of the provinces in a joint sitting to be called on to direct the federal government on any matter of provinces' interests.

3.7.2 Fiscal Legislation and Position of the Senate

As mentioned earlier that the Senate enjoys only recommendatory power in fiscal legislation, it oversees the fiscal policies of the federal government by holding accountable some federal

⁶⁸ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 153.

⁶⁹ *The Constitution of Pakistan as modified up to May 31, 2018*, Arts. 155 and 157.

⁷⁰ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 154.

intergovernmental institution that deal with the fiscal relations between the federal and the provincial governments. There are two intergovernmental institutions namely the NEC and the NFC that resolve the financial issues between the two levels of government as well as redistribute the federal revenues amongst the provinces.

3.7.2.1 National Economic Council

The NEC consists of chief ministers of the provinces and representatives of the provincial and federal government. It is chaired by the prime minister. It reviews the financial conditions of the country and where necessary advises the federal and provincial governments. Along with formulation of policies for the economic development of the country, its main function is to ensure a balanced economic development and regional equity as embedded in the Principles of Policy set in the Constitution of Pakistan. The Council is held accountable by the parliament and it is binding on it to submit its annual reports to both houses separately.⁷¹ The role of the Senate is to oversee and influence its policies by debating its annual reports.

3.7.2.2 National Finance Commission

Although the Eighteenth Constitutional Amendment has enhanced the fiscal autonomy of the provinces by authorizing them to collect some of the taxes locally, they are still dependent on some share from the federal revenues which are redistributed amongst the provinces through the NFC Awards. Such degree of financial dependence of provinces on the federal government requires a considerable intergovernmental cooperation between the provinces and the federation.

⁷¹ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 156.

The NFC Awards redistribute the share of provinces from divisible pool of federal taxes on the basis of the population.

The Commission consists of the federal minister for finance and provincial finance ministers. It makes recommendations on redistribution of federal revenues and on federal aid-grants to the provinces. It monitors the implementation of the Awards biannually and lay its reports on it to the both houses of the federal parliament separately. It is also binding on the Commission to lay its reports on ‘the action taken thereon’⁷² before the Senate and the Assembly. The Senate advances the concerns of the provinces on the reports of the Commission on its implementation and suggests its recommendations to the concerned for considering the grievances of the provinces by discussing these reports on the floor of the house and through its business in the its standing committees.

3.8 Executive Powers of the Senate

The Senate of Pakistan also performs some executive functions by appointing the office holder to senior offices (the Election Commissioner and Judges of the Supreme Court). The parliamentary committees comprised of eight members, four members from the Assembly and four from the Senate, approves the appointment of judges of the higher courts (Supreme Court, High Courts and Federal Shariat Court) that are nominated by the Judicial Commission of Pakistan.⁷³

⁷² *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 160.

⁷³ The Chief Justice of Pakistan and each of other judges of the Supreme Court are appointed by the President of Pakistan in accordance with Article 175A, inserted through 18th and 19th Constitutional Amendments. These Constitutional Amendments have devised a new scheme for appointment of Judges of the Supreme Court, Federal Shariat Court and High Courts. The Amendments provided for the constitution of Judicial Commission of Pakistan and Parliamentary Committee. The Commission consists of Chief Justice of Pakistan as Chairman, four senior most judges of the Supreme Court, one former Chief Justice or judge of the Supreme Court nominated by the Chairman in consultation with four member judges for a period of two years, the Attorney General for Pakistan, the Federal Law Minister and a senior advocate of Supreme Court of Pakistan nominated by the Pakistan Bar Council. Similarly, the

Similarly, the Chief Election Commissioner is also approved by the Parliamentary Committee to be consisted of twelve members amongst which the four members needs to be senators.⁷⁴

3.9 Post-Eighteenth Constitutional Amendment Extended Role of the Senate

The Senate of Pakistan has witnessed substantial changes in its powers and role as a territorial chamber. The subsequent constitutional amendments, especially the Eighteenth Constitutional Amendment of 2010, has, to some extent,⁷⁵ increased the role of the Senate in parliamentary oversight of the executive. The following section, briefly, evaluates continuity and change the Senate has witnessed in its role as chamber of provinces in the result of subsequent changes in the Constitution of 1973. The first change in this regard was increase in its seats, from original sixty-five members⁷⁶ to present ninety-six members.⁷⁷ The increase in Senate's membership has not only provided a representation to multi-classes (women, religious minorities and technocrats) but also has broadened the weightage of provinces in federal legislative business and policy

Parliamentary Committee consists of eight members with equal membership from the Treasury and Opposition Benches as well as of two Houses i.e. National Assembly and Senate. The nomination of the members from the Treasury Benches is made by the Leader of the House and from Opposition Benches by the Leader of the Opposition, provided that when the National Assembly is dissolved, the total membership of the Parliamentary Committee shall be consisted of the members from the Senate only. The Commission nominates a name for the appointment as judge of Supreme Court. The recommendations of the Commission are sent to the Parliamentary Committee. The Committee after receipt of nomination from the Commission may confirm the nominee by majority of its total membership within fourteen days, failing which the nomination shall be deemed to have been confirmed. However, the Committee may not confirm the nomination for reasons to be recorded, by three-fourth majority within said period and forward it to the Commission through Prime Minister and in such case the Commission shall send another nomination. The Committee shall send the name of the nominee confirmed by it or deemed to have been confirmed to the Prime Minister who shall forward the same to the President for appointment. *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 175-A.

⁷⁴ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 213.

⁷⁵ For the extent to which the Amendment has changed the constitutional framework see, Mahboob Hussain, and Rizwan Ullah Kokab, "Eighteenth Amendment in the Constitution of Pakistan: Success and Controversies," *Asian Social Science*, Vol 8, No. 1 (January, 2012); 81-88, 83-84.

⁷⁶ *The Constitution of Pakistan as passed on April 10, 1973*, Art. 59.

⁷⁷ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 59. See also, Kishwer Khan "Bicameralism in a Federation: An Historical Analysis of Role of Senate in Promoting Federalism in Pakistan," *Pakistan Perspectives* Vol 22, No.1 (2017); 135-58, 150.

making process. Similarly, the tenure of the members of the Senate was set earlier four years; half of the members were to get reelected through staggered elections,⁷⁸ the tenure of the members has increased now to six years.⁷⁹ An increase in its term of office may increase the chances of senators' turnover in legislative business.

The Amendment has further changed the legislative procedure where the Senate's role in legislation has been increased as a second legislative chamber of the federal parliament. It has increased the time period for, from earlier seven days to fourteen days, for the Senate to make recommendations on the money bill to the Assembly which has to consider those recommendations. The Amendment provides that presidential proclamation of emergency needs to be laid, within ten days of its issuance, before the both houses for their separate approval to the proclamation. The Amendment has enhanced the role of the Senate in legislation by making it mandatory to approve the proclamation in Senate's separate session which earlier was to approve in a joint sitting where the Assembly dominates in numbers. Under the Amendment, the members of the Senate are also made part of the PAC that oversees the expenditures of the federal government related departments. The Committee is comprised of twenty-three members out of which six members are included from the Senate, three each from the treasury and opposition benches.⁸⁰

⁷⁸ *The Constitution of Pakistan as passed on April 10, 1973*, Art. 59 (3).

⁷⁹ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 59 (3). After Imposing Martial Law, General Zia al-Haq kept the Senate dissolved from 1977 to 1985. In 1985, he promulgated Presidential Order No. 15 of 1985 through which the Senate was restored and term of the office of the members was increased from earlier four years to present six years. *Revival of the Constitution of 1973 Order, 1985*, (*Gazette of Pakistan, Extraordinary, Part I*, March 02, 1985), amendment to the Art. 59 of the Constitution of Pakistan, 1973.

⁸⁰ For details on post-Eighteenth Amendment extended role of the Senate see, Mian Raza Rabbani, *A Biography of Pakistani Federalism: Unity in Diversity* (Islamabad: Leo Books, 2016), 137-277. See also, Saeed Ahmed Rid, "The Emergence and Evolution of Upper House (the Senate) in Pakistani Federalism (1947 to the 18th Amendment 2010 and afterwards)," *Pakistan Journal of History and Culture*, Vol 85, No. 2 (2019), 1-20. For details on procedural changes see, Senate of Pakistan, *Rules of Procedure and Conduct of Business in the Senate, 2012 as amended upto January 22, 2020*, Rule, 172-F.

A comparative overview between the Senate's restricted powers, enshrined in the Constitution at the time of its ratification in 1973 and subsequent changes into the it until 2018 suggests four changes: firstly, the Senate enjoys coequal legislative powers on ordinary bills with that of the Assembly which earlier enjoyed conclusive initiating powers on some matters; secondly, the Senate has been given recommendatory powers on the money bills which earlier was not even to be transmitted to the Senate; thirdly, the Senate is provided with the power to initiate a bill, which earlier rested with the Assembly only, seeking a constitutional amendment; fourthly, the Senate has been given a power to approve the presidential proclamation, which earlier was considered in a joint sitting where the Assembly dominates in numbers, in its separate session.

In the first section of this chapter, the powers of the Senate with regard to a constitutional arrangement in which it operates are explained. It is argued that the parliamentary regime type has given advantage to the executive branch that dominates in the federal legislation. It also confirms that the Assembly dominates not only in the parliamentary procedures but also in executive-legislature relations as the executive pushes its policies through the Assembly. The Assembly not only dominates in the legislative powers but also provide majority support to it to continue with its policies. This argument is further elaborated by making following points in this regard. Firstly, the mutual dependence of the executive and legislative branch is confined to the Assembly, the popularly elected house of the federal parliament only. Secondly, since the Senate does not enjoy the fiscal powers, the Assembly dominates in the intra-chamber legislative business and constitutional powers. It also suggests that the Senate is constitutionally coequal federal legislative chamber with restriction as it cannot emend or reject the fiscal legislation.

The second section of the chapter has elaborated the linkage between the centralization of powers at federal level and its impact on the position of the Senate as a chamber of the provinces. The centralization of the federation has enhanced the powers of the executive in parliamentary procedures that are dominated by the Assembly where the executive or cabinet sits. Therefore, such tendency of the centralization has relatively strengthened the Assembly and weakens the Senate as the second chamber of the federal parliament. It has also weakened Senate's position in mutual relationship between the legislative and executive branch. Consequently, the powers of the Senate as a territorial chamber are overshadowed by the Assembly. Whether it goes same in composition of the two chambers is analysed in the next chapter.

Chapter 4

Bicameral Incongruence:

Compositional Distinctiveness of the Senate of Pakistan

In a bicameral federal legislature, the popular house provides population based representation to provinces whereas the second house provides equal regional representation to all provinces. Such distinctive basis of representation is manifested in compositional distinctiveness between the two houses. The previous chapter overviewed the powers of the Senate of Pakistan. It also discussed the degree of powers asymmetry between the Assembly and the Senate. It established that the relativity of the powers between the two chambers needs to be situated within a parliamentary regime type as it confirmed that there is a considerable interconnection between the regime type (parliamentary) and unequal bicameralism. Similarly, it observed that the centralized character of Pakistani federation has largely influenced the institutional strength of the Senate as centralization of powers at centre combined with the parliamentary regime type is equated with the dominance of the executive or the government in the parliamentary procedures.

The indirect elections of the Senate combined with the Proportional Representation (PR) produces bicameral incongruence. In 1973, the Constitution-makers believed that the indirect election was a best way to link the Senate with the provincial assemblies or the governments to which it was associated with. Similarly, they observed that the PR would provide an equal opportunity to all the parties, smaller or larger having representation in the provincial assemblies, to send the senators to the Senate as proportional to their political strength in the provincial

assemblies. They introduced periodic or staggered elections of the Senate to produce a stable and permanent territorial federal second chamber that would oversee the federal policy processes and raise the regional concerns when the Assembly is even not functional. More importantly, the equal regional representation (ERR) or overrepresentation to smaller provinces was given to make the provinces feel constitutionally equal and to diffuse the majority of the one larger province, the Punjab, in the Assembly.

This chapter discusses the compositional distinctiveness of the Senate of Pakistan. First section briefly explains the basis of compositional distinctiveness of the overseas second chambers. The second section focuses on the politics of equal regional representation (ERR) as a federal principle within Pakistani federal contexts. The proportional representation in the Senate combined with STV is also discussed in the section. It raises the question that whether the EER combined with PR contributes to the equality of provinces in the actual working of the Senate as a territorial chamber.

The second section looks at the rationale for introducing indirect election method to elect the members of the Senate. It also takes a look at the political parties' role in the selection of the candidates and their return to the Senate of Pakistan. It assesses the connections between indirect election method and the issue of the political (*il*)legitimacy of the Senate as a territorial chamber while the interference of parties in legislative behavior of the senators is analysed in the chapter six. The more qualified questions in this chapter are whether the ERR combined with PR sufficiently qualifies the senators to raise the provinces' concerns equally and effectively; and, indirect election method combined with party head's role in candidates' nomination affects the strength of Pakistani bicameralism.

4.1 Compositional Distinctiveness of Second Chambers Explained

For Lijphart, second classic variable to powers that indicates the institutional weakness or strength of a second chamber is when it is composed on distinctive principles from that of the first chamber.¹ The ways in which the compositional distinctiveness of a second chamber can be explained include: (a), the method of election, with few exceptions, majority of the second chambers are indirectly elected by the regional legislatures whereas the first chambers are directly elected on the basis of ‘one person one vote’ principle; (b). the members of the second chambers may usually serve longer term and require different age limits; (c). the simultaneity of the renewal of the members of the both chambers may not occur and the staggered character of elections may apply on the second chambers; (d). and finally, although, the principle of ‘one vote one person’ may not be applied on the second chambers, they follow the principle of equal regional representation irrespective of their size² that is a favour to smaller provinces as they are overrepresented in federations. For institutional strength of a second chamber, it must be compositionally distinctive from and coequal in powers with the first chamber. The Table. 4.1. explains degree of compositional distinctiveness of some selected second chambers with regard to their selection methods and regional representation types.

¹ Lijphart *Patterns of Democracy*, 200-15.

² Swenden, “Subnational participation in national decisions,” 105-106.

Table: 4.1. Compositional Distinctiveness (with regard to Regional Representation and Election Methods) of Some Selected Second Chambers

Regime Type/ Second Chamber	Elected Method	Regional Representation Type	Compositional Distinctiveness
US Senate <i>Presidential</i>	Directly elected	Equal state representation	Moderate
Brazilian Senate <i>Presidential</i>	Directly elected (by simple plurality)	Equal state representation	High
Argentinian Senate <i>Presidential</i>	Directly elected (in part by PR)	Equal state representation	High
Swiss Standerat <i>Hybrid</i>	Directly elected (by plurality vote)	Equal state representation (except for half cantons)	High
Australian Senate <i>Parliamentary</i>	Directly elected (by PR)	Equal state representation (lower representation for territories)	High
German Bundesrat <i>Parliamentary</i>	Indirectly elected (regional executives)	Weighted state representation	High
Indian Rajya Sabha <i>Parliamentary</i>	Indirectly elected by (regional legislatures)	Weighted state representation	High
Canadian Senate <i>Parliamentary</i>	Appointed by Governor General (in practice by Prime Minister)	Representation by 'Region'	High

Russian Federation Council <i>Semi 'Super' Presidential</i>	One delegated by regional executive, the other by subnational legislature	Equal state representation	<i>High (de facto, lower due to presidential grip on nominations)</i>
Belgian Senate <i>Parliamentary</i>	40/71 indirectly elected simultaneous with lower house 21/71 indirectly elected from within regional (Community) 10 co-opted by directly and indirectly senators		Low
Spanish Senate <i>Parliamentary</i>	208, directly elected simultaneous with lower house 49 appointed by and from within regional parliaments		Low
Austrian Senate <i>Parliamentary</i>	indirectly elected by regional legislatures	Weighted subnational representation	Moderate

Source: Swenden, "Subnational participation in national decisions," 107-11.

Note: The Table drawn by Swenden also includes the degree of powers (a)symmetry on which he describes second chambers' significance for subnational representation. He also typifies the type of bicameral strength based on the degree of powers (a)symmetry and compositional distinctiveness (election method and representation type). The researcher has excluded the information on powers (a)symmetry and bicameral strength type as it is already discussed in the three chapter on the powers of the Senate.

The Table 4.1. suggests that the compositional distinctiveness of those second chambers is likely high which are composed differently from the way that of the first chambers. It also illustrates that majority of the second chambers give equal regional representation to the states or the provinces.

4.2 Compositional Distinctiveness of the Senate of Pakistan: Provinces as Basis of Representation

The first distinction between the first and second chamber may be of their base of representation. The first chamber represents the population whereas the second chamber represents the regions or units. The distribution of seats in the former is based on the size of the population of the units whereas the latter provides equal regional representation. In some political cultures where there exists an inequality of population division between the provinces, the political interests of the larger provinces differ from those of the smaller provinces. The political dominance of the larger provinces in the first chamber, giving seats based on the population, creates a feeling of underrepresentation amongst the less populous provinces. In such political cultures, the equal regional representation formula is employed to mark a national cohesion and create a sense of constitutional equality among the provinces, smaller or larger.

4.2.1 Equal Regional Representation

The Constitution of Pakistan, 1973 introduced a bicameral federal parliament where the National Assembly, the first chamber, represents the principle of population on one person one vote whereas second chamber, the Senate, represents the principle of territory or equality of all provinces. In the words of the then law minister, the principle of population was represented in the Assembly and principle of equal regional representation was adopted in the Senate as he explained that ‘in the Senate we will have equal representation and in the National Assembly

there should be representation according to population’³ and he further argues that ‘we have accepted the status of the provinces. The federating units are equally represented in the Upper House.’⁴

In 1973, the membership of the Senate was consisted of sixty-three seats. Each province was allocated fourteen seats whereas the FATA and the Federal Capital, the Islamabad, were allocated five and two seats respectively.⁵ In 1985, the seats were raised from sixty-three to eighty-seven. In addition to general seats, the seats were reserved for technocrats/*ulema* and women in 1985.⁶ The next raise in the seats of the Senate took place in 2002 when the seats were reserved for women (four from each province) resulting in the raise from eighty-seven to one hundred members.⁷ In 2010, under the Eighteenth Constitutional Amendment, four seats were reserved for non-Muslim minorities. The addition of minority seats raised the membership of the Senate from one hundred members to one hundred and four members.⁸

With the merger of FATA into the KP, previously NWFP, the eight seats earlier allocated to FATA were excluded from the total membership of the Senate. With this merger, the total membership of the Senate is reduced to ninety-six members now.⁹ Under the Article 59 of the Constitution of 1973, each provincial assembly elects 23 members (general seats, 14; women, 4; technocrats and *Ulema* or religious scholars, 4; non-Muslim minority, 1) in accordance with PR by mean of STV. Additionally, the National Assembly elects 4 members (general, 2;

³ *National Assembly Debates* Vol II, No. 1-11, 56.

⁴ *Constitution Making Debate* Vol II, No. 1-11, February 17, 1973, 14.

⁵ *The Constitution of Pakistan, 1973 as passed on April 10, 1973*, Art. 59.

⁶ *Provisional Constitution Order dated March 24, 1981 (The Gazette of Pakistan, 24 March, 1981)*, 1Art. 4 (1-2).

⁷ *Legal Framework Order, 2002, (The Gazette of Pakistan, August, 2002)*.

⁸ *Constitution (Eighteenth-Amendment) Act, 2010 (The Gazette of Pakistan, April 20, 2010)*.

⁹ Under (Twenty-Fifth Amendment to the Constitution) of 2018 both the Provincially Administrated Tribal Areas (PATA) and Federally Administrated Areas (FATA) were merged into the Province of Khyber Pakhtunkhwa. *Constitution (Twenty-Fifth Amendment) Act, 2018 (The Gazette of Pakistan, June 5, 2018)*.

technocrat/*aalim*, 1; and, woman, 1) from the federal capital territory, Islamabad.¹⁰ The chronology of raise in the total seats of the Senate and description of equal regional representation to all the provinces is provided in the Table. 4.2.

Table: 4.2. The Composition (with regard to equal regional representation) of the Senate, 1973-2018

Year	Total Seats	Each Province	Federal Capital	FATA
1973	63 ¹¹	14	2	5
1985	87	19	3	8
2002	100	22	4	8
2010	104	23	4	8
2018	96	23	4	0

Source: The researcher has drawn this table by examining changes into the Article 59 of the *Constitution of Pakistan 1973*.

The statistical analysis of the composition of the Senate suggests that there has been constant increase in the total membership of the Senate, however, what has remained unchanged is the principle of equal regional representation of the provinces irrespective of a huge difference in their demographic size.

¹⁰ *The Constitution of Pakistan, 1973 as modified upto May 31, 2018*, Art. 59.

¹¹ Under the Article 59 of the Constitution of 1973 as passed April 10, 1973, the total seats of the Senate were 63 members. However, the initial strength of the Senate in 1973 was forty-five members: each of the four provinces elected indirectly ten members: FATA three members; and, Islamabad, the Capital, two members. National Assembly *Debates (Constitution-Making)*, April 8, 1973, 2310-11. The full strength of 63 members was completed in 1977 when the rest of the 18 members returned in the result of 1977 Senate elections.

4.2.2 Majority-Constraining Character of Federal Second Chambers

The unique American model of equal regional representation is followed in by probably all the federal second chambers. According the Riker, the fundamental structure of American model is what he terms as ‘centralization federalism.’¹² He explains the continuum of federalism by dividing all federal democracies in a binary of centralized and decentralized federations. He urges that the *Philadelphia* Convention or Constitutional Convention of 1787, a convention intended to form a national government, was a formula to *constrain constitutionally* all the states to invent a centralized and stronger federal government. Stepan, however, argues alternatively to approach the character of American federalism. He does not conceive the dichotomous idea of centre-constraining and centre-enabling or centralized and decentralized federalism but his analytical understating of the continuum of American federalism runs ‘from least demos constraining to high demos constraining federalism’¹³ or putting differently, demos constraining to demos enabling federalism. He argues that the American federalism is, as a federal norm, an extreme outlier of demos constraining federal model that is practiced to block the democratic majority at centre. However, it is Brazilian bicameral federal model that has an actual ‘potential to block the democratic majority’¹⁴ only.

In addition to other means,¹⁵ the democratic majority at the centre is diffused or blocked horizontally through forming two legislative chambers at the centre where the first chamber represents the principle of population whereas the second chambers represent the principle of

¹² William H. Riker, *The Development of American Federalism* (Boston: Kluwer Academic Publisher 1987), 17-42.

¹³ Alfred Stepan, *Arguing Comparative Politics* (Oxford: Oxford University Press, 2001), 334.

¹⁴ Stepan, *Arguing Comparative Politics*, 334.

¹⁵ It is achieved through the norm of dual constitutional sovereignty (provincial and federal); massive overrepresentation to less populous states in the second chamber; rigidity in amending the federal constitution; and, complexity of the constitution where there is no clear disentanglement of policy powers between the central and provincial government or where there is these two levels of government are made dependent on each other for legislative, administrative and fiscal policy-makings processes. Stepan, *Arguing Comparative Politics*, 335-36.

territory or region.¹⁶ The democratic majority of the larger provinces is constrained by giving equal regional representation or what to say the massive overrepresentation to the less populous regions. Shepsle and Weingast further demonstrate the argument that structure of the federal institutions are maintained in way in which the status quo produces what they claim a ‘structurally induced equilibrium’¹⁷ to influence the federal policy making processes.

A second chamber that provides massive overrepresentation to produce a structurally induced equilibrium combined with its symmetrical policy scope can have strong policy implications for a federation. Example of such massive overrepresentation is Brazilian Senate where a group of senators, representing less than 9 percentage of electorate, may produce ‘win-set’ blockage to federal legislative agenda. The Brazilian second chamber is a unique example of structurally induced equilibrium in a demos-constraining federation.¹⁸ The two variables can explain the degree of demos-constraining character of a federal second chamber: first, the degree of overrepresentation of less populous provinces; and, second, its policy scope in federal decision making. These variables can be explained through two propositions that the more the overrepresentation of less populous provinces, the more the demos-constraining potential of a second chamber; the greater the policy scope of a second chamber, the greater potential to limit the powers of the first chamber.¹⁹

Probably, majority of the federations give massive overrepresentation to the less populous provinces in the second chambers to constrain the democratic majority of larger

¹⁶ Robert A. Dahl, “Federalism and the Democratic Process,” *Nomos*, Vol 25, No. 1 (1983), 95-108.

¹⁷ Kenneth A. Shepsle, Barry R. Weingast, “Structure-Induced Equilibrium and Legislative Choice,” *Public Choice*, Vol 37, No. 3 (1981), 503-519.

¹⁸ Marta Arretche “Demos-Constraining or Demos-Enabling Federalism? Political Institutions and Policy Change in Brazil,” *Journal of Politics in Latin America*, Vol 5, No. 2 (2013), 133-50.

¹⁹ Stepan, *Arguing Comparative Politics*, 340.

provinces in first chamber where the seats are allocated on the basis of the population of provinces. The most widely followed model of such democratic inequality is American Senate that provides equal territorial representation that is to say actually a massive overrepresentation to small states. In a 'grand compromise' of 1787, the representatives of the larger states violated the principle of democratic equality by granting two constitutional concessions to smaller states with regard to the role of the Senate as a territorial chamber: firstly, that they provided equal regional representation or massive overrepresentation to less populous states in the Senate; and, secondly, that they made coequal policy scope of the both chambers, the House and the Senate.²⁰ Such disproportionate representation combined with the symmetrical policy scope could produce potentially the problem of, especially in multi-ethnic federation, 'allegiance to the federation by some leaders at the centre.'²¹ The normative explanation of branding those second chambers, that give overrepresentation to less populous provinces, is empirically operationalized by Stepan to measure the degree of their demos-constraining character of federal second chambers. By utilizing the Gini-coefficient Index²² of inequal representation in the second chambers, he places second chambers of three democracies (India, Belgium and Austria) as less demos-constraining chambers whereas the second chambers of three countries (Argentina, United States and Brazil) are placed on the high demos-constraining category.²³

²⁰ For more detailed discussion see, Elaine K. Swift, *The Making of an American Senate: Reconstitutive Change in Congress, 1787–1841* (Ann Arbor: University of Michigan Press, 1996).

²¹ Stepan, *Arguing Comparative Politics*, 342.

²² Gini-efficient of Inequality simply measures the degree of equality among variables, where the index value of zero denotes complete equality and an index value approaching the theoretical maximum of 1.0 denotes complete inequality (which would mean that the state has all the representatives). Arend Lijphart, *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-one Countries* (New Haven: Yale University Press, 1984), 174.

²³ Stepan, *Arguing Comparative Politics*, 343.

4.2.3 Equal Regional Representation or Overrepresentation of Less Populous Provinces in the Senate of Pakistan?

An analysis of the federal component of the Constitution of 1973 suggests that the Constitution-makers adopted the classic American territorial model by giving massive overrepresentation to less populous provinces in the Senate. The adoption of the principle of equality of regional representation in the Senate was, in the words of Watt, an explicit “effort to weight representation in favour of smaller regional unit”²⁴ as it is done in majority of the democratic federations. Conceptually, such equal regional representation in the Senate was to make the provinces feel constitutionally all equal federating units. Politically, such territorial equality was to constrain or, at least to diffuse, the democratic majority of the one province, the Punjab,²⁵ in the federal parliament as it dominated²⁶ especially in the National Assembly, the chamber of population elected directly on the basis of one person one vote principle. Table. 4.3. provides a comparative description of the seats’ allocation to the provinces in the Assembly and the Senate to show the majority of the Punjab in the Assembly that was intended to be diffused by giving equal or overrepresentation to less populous provinces.

²⁴ Watts, *Comparing Federalism*, 95.

²⁵ Waseem, “Pakistan: Majority-Constraining Federation,” 17-42.

²⁶ The total 200 general seats of the National Assembly were allocated to the provinces as follows: Punjab (116); Sind (43); N.W.F.P. now K.P. (34); and, Baluchistan (7). This allocation of seats suggests a clear overwhelming majority of the Punjab with 116 seats over combined seats (84) of the all the three provinces. For more discussion on the first general election under the Constitution of Pakistan, 1973 see, Mehrunnisa Ali, “Pakistan: Aftermath of The March 1977 Elections,” *Pakistan Horizon*, Vol 30, No. 3/4 (1977), 7-102.

Table: 4.3. Distribution of Seats (Assembly and Senate) amongst the Provinces, 1973, 2018

Province/Territory	General Seats in Assembly		Seats in the Senate	
	1973	2018	1973	2018
Punjab	115	141	14	23
Sindh	43	61	14	23
KP	26	45	14	23
Balochistan	07	16	14	23
Federal Capital-Islamabad	01	03	02	04
FATA	08	0	05	0
Total	200	266	63	96

Source: The researcher has drawn the table by consulting the Articles 50 and 59 of the *Constitution of Pakistan, 1973*.

The Table. 4.3. suggests that there existed a huge difference in the seat's allocation of the Assembly between the less populous provinces (Sind, Baluchistan and NWFP now KP) and the larger province, the Punjab, that could potentially outnumber all the provinces in the Assembly in 1973 when the Senate was created as a territorial chamber. Therefore, the members of Constitution Committee of the less populous provinces demanded such representational formula of regional representation in the federal parliament where:

The number of the members of the two Houses should be so fixed as to ensure that in a joint sitting the representatives of the one Province...(the Punjab)...should not be more than the collective representation of the remaining Provinces,²⁷ (Sind, N.W.F.P., Baluchistan).

²⁷ Such recommendations were suggested by Mr. Amirzada Khan, who was representing the National Awami Party (NAP), an opposition party in the National Assembly and popular support or government in two less populous provinces the Balochistan and the N.W.F.P at that time, in the Constitution Committee, a committee consisting of the members of the parliamentary parties, to suggest the principles of the future constitution of 1973. *Constitution-Making in Pakistan* (Islamabad: National Assembly of Pakistan, 1975), 134.

They further suggested that for the satisfaction of the smaller provinces that their rights would be safeguarded through the Senate as a territorial chamber, it was necessary to include a provision in the Constitution that ‘no bill or measure should be passed unless it had the support of the majority of each federating unit.’²⁸ They also argued that in case of intra-cameral disagreements, the decision should be taken by the majority of the total membership of the two chambers instead of by vote of simple majority in a joint sitting. However, to dissatisfaction of the smaller provinces, the demand of veto powers of the Senate on legislative and money bills was rejected on the ground that it will not only result in a legislative ‘deadlock but also multiply the procedures to be followed in law-making.’²⁹

The compromise between the representative of the larger province, the Punjab, and the less populous provinces (N.W.F.P., Sind and Baluchistan) was reached over two issues with regard to the regional representation in and policy powers of the Senate in the Accord on Constitution of 1972. Firstly, there would be equality of territorial representation in the Senate that was actually an overrepresentation of the less populous provinces. Secondly, the Senate shall not enjoy the administrative, supervisory or fiscal powers. It would have only delaying and recommendatory legislative role. The only National Assembly would enjoy the power of final decision over money and the legislative bills,³⁰ a directly elected first chamber. The disproportionate representation in the Senate combined with an asymmetrical policy scope between the Senate and the Assembly was embedded in the Constitution of Pakistan of 1973. The massive overrepresentation, that was intended to dilute the democratic majority of the Punjab, to the less populous provinces was given to gain the political allegiance of their leaders

²⁸ *Constitution-Making in Pakistan*, 134.

²⁹ *Constitution-Making in Pakistan*, 154.

³⁰ See for the text of the Accord on Constitution, 1973, *Constitution-Making in Pakistan*, 101-10.

to the federation of Pakistan whereas as policy scope of the Senate was restricted to avoid any potential problem of lacking allegiance to the federation by some regional leaders at the centre.

Arguably, the larger province, the Punjab, agreed to give massive overrepresentation to the smaller provinces to secure the political allegiance of the leaders of the smaller provinces to the recently dismembered federation of Pakistan. However, the status quo of political majority of the Assembly that is to say the democratic majority of the Punjab was maintained by introducing a ‘asymmetrical policy scope’ between the Senate and the Assembly. The equal regional representation in the Senate diluted the majority of the Punjab but not fully constrained, as it is achieved through massive overrepresentation to smaller states in combined with symmetrical policy scope to the Senate in the United States, because the Punjab would still dominate in a joint sitting, to be called on in case of a disagreement between the two chambers as it is manifested in the Table. 4.3. that seats of the Punjab are more (141) than the all three provinces (122) collectively.’ It also confirms that a constant increase in the total seats of the Senate by the subsequent governments combined with the principle of equal regional representation have thinly diluted the political majority of the Punjab as it still dominates in the Assembly. Similarly, an attempt to diffuse the majority of the Assembly is still impossible as it dominates, in case of a joint sitting, to resolve the legislative disagreements between the two chambers.

The constitutional equality of territorial regions in the Senate was politically undermined by giving the Assembly powers of final decision making. With regard to the equal regional or overrepresentation of the smaller provinces in the Senate, two assumptions are advanced: firstly, such equality of regional representation is applied, though it is against the democratic principle of majority, to diffuse the majority of the larger provinces; and, secondly, equal regional

representation does not facilitate a territorial chamber to safeguard the interests of the regions equally until the Senate is not clothed with sufficient policy powers.

4.3 Proportional Representation

Majority of the political theorists argue that an electoral design is ‘probably the most powerful instrument for shaping the political system.’³¹ An electoral design provides a mean by which the will of the electors or voters is translated into elected members who would hold the political offices. Different electoral designs translate the voters’ will into the different political outcomes. Perhaps, most commonly the members of the parliament are elected through two electoral designs; plurality majority system, and proportional representation. In plurality majority system, each member represents single electoral constituency or a geographic district. The most common variants of this system are, United States, Canadian and British, where it is also known as ‘first-past-the-post’ in which a candidate having secured most votes wins.³² It is usually used to elect the members of the first chambers to be elected directly on the principle of one person one vote.

The PR as an electoral design is employed, in its different variants, to elect almost half of the world’s parliaments.³³ In a pure PR electoral design, the parties provide a list of candidates out which the voters elect the members. The PR system allocates a number of seats to each party as proportional to its political majority or weightage of popular vote they have gained from people. Although, the electoral designs vary from country to country what is not uncommon is

³¹ Arend Lijphart, “The alternative vote: a realistic alternative for South Africa?,” *Politikon*, Vol 18, No. 2 ((1991); 91-101, 91.

³² Enid Lakeman and James D. Lambert, *Voting in Democracies: A Study of Majority and Proportional Electoral Systems* (London: Faber and Faber, n.d.), 50-71.

³³ Out of 212 countries, the count of electoral systems to be used is as follows: plurality-majority, 109; proportional, 74; and, semi-proportional, 29. Edward Schneier, *Crafting Constitutional Democracies: The Politics of Institutional Design* (Oxford: Rowman and Littlefield Publishers, Inc., 2006), 93.

that all the countries have embedded the basic outlines of an electoral design to describe the purpose of introducing a particular electoral system. More often, the relationship between election rules and the basis of representation of a political institution is manifested clearly and directly. It is an electoral design that defines that who is representing to whom and how?

The more critical questions regarding PR are related to ‘threshold’, a minimum number of votes to win a seat, and electoral districts. Sartori differentiates more sophisticatedly the consequences of First Past the Post or FPTP system and PR system by focusing on continuum of electoral districts and the thresholds for electing a member. For him, electoral districts or constituencies in FPTP are usually smaller whereas in the PR system the districts or larger as it is an entire region or province in the case districts of second chambers. The smaller districts combined with high threshold likely minimises the proliferation of parties whereas the large district combined with low threshold increases the number of parties in legislatures.³⁴ More importantly, the district’s size also appears on the political roles of an individual legislator. For instance, the members of the American Senate, who represents an entire state as his or her district, is more likely ‘less parochial and more moderate’³⁵ than a member of the House, representing a smaller district. Conversely to narrower and complex worldview of the representatives of the smaller districts, the senators represent greater socio-political diversity because:

³⁴ Sartori *Comparative Constitutional Engineering*, 44.

³⁵ Schneier, *Crafting Constitutional Democracies*, 97.

Senators, facing a daunting array of state interest, are often compelled to take stands that involve politically painful choices. They are prevented from adopting a strategy of merely conforming precisely to the interests of their constituencies because their constituencies are states, where it is unavoidable that there will be interest that will class.³⁶

The Constitution-makers of Pakistan borrowed the widely known idea underlying in PR system that it increases the number of political parties³⁷ in a legislature. They decided to introduce PR system by mean of single transferable vote (STV)³⁸ for having reflection of parties as proportional to their popular support in the Provincial Assemblies. Under the Article 59 of the Constitution of 1973 the members of the Provincial Assemblies form the Electoral College for the Senate elections. The Article reads that ‘elections to fill seats in the Senate allocated to each Provinces shall be held in accordance with the system of proportional representation by means of the single transferable.’³⁹ The purpose behind constituting the Senate through PR system was to reflect the strength of the political parties proportional to their support⁴⁰ in the Provincial Assemblies. The then minister for law elaborated the idea underlying in adopting the single transferable vote system of PR that:

³⁶ Schneier, *Crafting Constitutional Democracies*, 96.

³⁷ The tendency of FPTP system to produce two party system and less choices for voters is avoided by using PR system. Maurice Duverger. *Political Parties: Their Organization and Activity in the Modern State* (London: Methuen Publishing, 1954). See also, “The Political Consequences of the Alternative Vote: Lessons from Western Canada,” *Canadian Journal of Political Science* Vol 37, No. 3, (2004), 647-669.

³⁸ In 19th century, Thomas Wright Hill invented this election system type. It has been adopted to elected the parliaments by the countries namely Germany, Malta and Ireland etc. In the British India, the system was being used to elect the members of the Municipal and District Boards. In addition, the upper chambers of some provinces were also being constituted through this system in the British India. The first Constituent Assembly of Pakistan was elected through this system. Later on, the system was adopted to elect the members of the Senate of Pakistan in 1973. The system serves the purpose to accurately elect the candidates who enjoy the support of the voters. In a word, it is adopted for the Senate’s election to reflect the strength of each party proportionate to votes it has secured in the provincial legislatures. Under this system, every voter enjoys one vote irrespective of the members to be elected to the Senate of Pakistan. Although every voter has one vote, a voter can indicate preferences for more than one candidate ensuring that vote is not wasted at any stage. The Election Commission of Pakistan, *How to Vote under the System of Proportional Representation by mean of Single a Transferable Vote* (Islamabad: Election Commission of Pakistan, 2018), 2.

³⁹ *The Constitution of Pakistan, 1973 as modified upto May 31, 2018*, Art. 59.

⁴⁰ Though the study focuses only on the benefits of PR in the Assembly election, Professor Khurshid, a former Senators, has discussed the role of PR in production party diversity in the federal parliament. Prof. Khurshid Ahmad, *Proportional Representation and the Revival of Democratic Process in Pakistan* (Islamabad: Institute of Policy Studies, 1983).

There must be representation of the parties in the Senate in the same proportion as they are represented in the Provincial Assembly. Therefore, by the single transferable vote the Senate shall comprise all parties represented in the Provincial Assembly.⁴¹

The STV system of PR is considered a system that produces more proportionate elections results. It provides a range of choices for electors who can make preferences to get a better, what they think so, candidate elected. It appeared to attractive to British politicians when they repeatedly clamoured for electoral reforms until it was adopted in 1917.⁴² Vernon Bogdanor, however, relates it to be adopted as an electoral system to the British when he contended that ‘apart from a brief experiment in Denmark in the 1950s, STV has been used only in countries which have at some time been under the British rule.’⁴³ For him, it is method that produces probably best the proportional representation. What is not uncommon in all the countries that use this method is that they are, with few exceptions, smaller in size. Similarly, it is used for elections to the second territorial chambers where, though the size of electoral district is larger, the number of districts and voters is smaller. For example, it is used to elect the members of the Australian Senate but it is not used for the elections of the House, the lower chamber.⁴⁴

4.3.1 Proportional Representation and Reflection of Party Diversity

The Senate was constituted after the election of 1973. Since the term of the Senate was set four years, the second elections to the Senate were held in 1975 to elect the other half of the Senate’s members. After the military takeover of General Zia in 1977, the Senate remained suspended from 1977 to 1985. The next membership of the Senate was constituted in the election held in

⁴¹ *The National Assembly of Pakistan (Constitution Making) Debate*, Vol. II, No. 1-11, December 31, 1972, 11.

⁴² David M. Farrell, *Electoral Systems: A Comparative Introduction* (London: Palgrave Macmillan, 2001), 120.

⁴³ Vernon Bogdanor and David Butler, *Democracy and Elections: Elected Systems and their Political Consequences* (London: Cambridge University Press, 1983), 9.

⁴⁴ Only two smaller in population countries (Irish Republic and Malta) use this method for the first chamber. Farrell, *Electoral Systems*, 102.

1985 when General Zia held non-party basis elections. Similarly, the staggered elections to fill the vacant seats of the Senate were held in 1988, 1991, 1994 and 1997 respectively. In 1999, with the military takeover of General Musharraf (r.1999-2008), the Senate of Pakistan was dissolved for next four years till its restoration in 2003. Subsequently, the mid-term elections to the Senate were held in 2006, 2009, 2012, 2015 and 2018-the last election in the period under study.

One of the central features of the STV system of PR is that it helps secure the proportional representation what Vernon terms of ‘political opinion.’⁴⁵ Looking at the electoral history of the Senate of Pakistan, it clearly suggests that the STV system of PR has contributed to the underrepresentation of weak or smaller parties whereas it has fostered the trend of excessive overrepresentation of the larger or strongest parties. To elaborate this point, the party position in the three four elections (1973, 2012, 2015 and 2018) is provided in the following lines.

During period spanning from the years between 2008 and 2018 is declared as a decade of democracy in the parliamentary history of Pakistan as it witnessed completion of two tenures (the thirteenth Assembly, 2008-2013; and fourteenth Assembly, 2013-2018). It is declared so because General Musharraf who has been ruling the country since 1999 as a military-dictator, was forced to step down in 2008 followed by compilation of two civilian governments (PPP-P, 2008-2013; PML-N, 2012-2018). In the years between 2008 and 2012, three general elections (2008, 2012 and 2018) to elect the Provincial and National Assemblies and four staggered elections (2009, 2012, 2015, and 2018) were held to renew the half-membership of the Senate. The Table. 4.4. provides a comparative overview of the elections times tables of the National Assembly and the Senate between the years 2008 and 2012.

⁴⁵ Butler, *Democracy and Elections*, 9.

Table: 4.4. Time tables of Assembly and Senate elections compared, 2008-2018

Assembly Elections Dates	Senate Elections Dates
18-02-2008	03-03-2009
11-05-2013	02-03-2012
25-07-2018	05-03-2015
	03-03-2018

Source: The researcher has drawn this table by consulting the website of the Election Commission of Pakistan.

In July 1973, the first election to the Senate was held in which the PPP-P emerged as majority party in the Senate. The members elected Mr. Habibullah Khan as the Chairman and Mr. Muhammad Tahir as the Deputy Chairman of the Senate, both from the PPP-P.⁴⁶ The party position in the 1973 election is described in the Table 4. 5.

Table: 4.5. Party Position in the Senate, 1973

Serial Number	Party Name	Seats
1.	PPP-P	29
2.	NAP	8
3.	PML	1
4.	JUI	2
5.	UDF	2
6.	Independents	3

Source: The First Senate of Pakistan, 21.

⁴⁶ For the details of the composition, profiles of the members and proceedings of the first Senate see, *Founding Day: Proceedings and Record of First Sitting of the Senate of Pakistan, August 6,1973* (Islamabad: The Senate of Pakistan).

In continuation of democratic process and a peaceful democratic transition, the eleventh staggered Senate elections to elect the fifty-four members⁴⁷ were held in March 2012. The elections filled the fifty-four seats including four seats reserved for the non-Muslims members under the Eighteenth Constitutional Amendment in 2010. The PPP-P, the then ruling party, emerged as a single largest party in the Senate. The members elected Syed Nayyer Hussain Bokhari of PPP-P as the Chairman and Sabir Ali Baloch of PPP-P as Deputy Chairman of the Senate respectively. The Table. 4.6. mentions the party position is mentioned in the Senate in 2012. The Table also describes the differences in the party position in the elections of 2009 and 2012.

Table: 4.6. Party Position in the Senate, 2012

Serial Number	Party Name	Returned in 2009	Returned in 2012	Difference	Total in 2012
1.	PPP-P	27	14	+14	41
2.	PML-N	7	7	+7	14
3.	PML-Q	21	0	-16	5
4.	MQM-Pakistan	6	1	+1	7
5.	ANP	6	6	+6	12
6.	JUI-F	4	3	+3	7
7.	BNP-A	2	2	+2	4
8.	MMA	9	0	-9	0
9.	PML-F	1	0	-	1
10.	JWP	1	0	-1	0
11.	Pk-MAP	1	0	-1	0
12.	PPP-Sherpao	1	0	-1	0
13.	NP	1	0	-	1
14.	Independents	13	12	-1	12
	Total Seats	100			104

Source: The researcher has drawn this table by retrieving this data from the websites of the Senate and Inter-Parliamentary Union.

⁴⁷ For details on the categories of the seats visit, websites of the Senate of Pakistan and Inter-Parliamentary Union. http://archive.ipu.org/parline-e/reports/arc/2242_12.htm

The twelfth staggered Senate election to elect the fifty-two⁴⁸ members was held in March, 2015. The PML-N secured more seats than any other political party as it had majority in the Punjab Assembly at that time. However, the PPP-P retained an overall majority in the Senate with its twenty-seven senators. The members elected Mian Raza Rabbani of PPP-P as the Chairman and Maulana Ghafoor Haideri of JUI-F as Deputy Chairman of the Senate. The Table. 4.7. indicates the party position in the Senate as result of 2015 Senate elections.

Table: 4.7. Party Position in the Senate, 2015

Serial Number	Party Name	Returned in 2015	Total Members in 2015
1.	PPP-P	8	27
2.	PML-N	18	26
3.	MQM-Pakistan	4	8
4.	ANP	1	6
5.	BNP-A	0	2
6.	PML-F	0	1
7.	Pk-MAP	3	3
8.	Independents	5	10
9.	PTI	6	7
10.	PML	0	4
11.	JI	1	1
12.	BNP-Mengal	1	1
13.	JUi-F	2	5
14.	NP	3	3
	Total Seats	52	104

Source: The researcher has retrieved the data from the website of the Inter-Parliamentary Union.

The thirteenth staggered Senate elections to elect the fifty-two members were held in March 2018. The PML-N emerged the largest party in the Senate in 2018 elections.⁴⁹ The members elected Sadiq Sanjarani of Balochistan Awami Party (BAP) as the Chairman and Saleem

⁴⁸ For details on the seats renewed in 2015 visit, websites of the Senate of Pakistan and Inter-Parliamentary Union. http://archive.ipu.org/parline-e/reports/arc/2242_15.htm and https://senate.gov.pk/en/current_members.php

⁴⁹ For details on seats renewed in 2018 elections see, “Senate Elections: PML-N Begs Loin’s Share; PPP-P Outperforms, PTI Meets Expectations,” *Daily Dawn*, March 3, 2018, (Islamabad).

Mandviwalla of PPP-P as Deputy Chairman of the Senate. The Table. 4.8. indicates the party position as the result of 2018 Senate elections.

Table: 4.8. Party Position in the Senate, 2018

Serial Number	Party Name	Returned in 2018	Strength in 2015
1.	PPP-P	12	20
2.	PML-N	15	33
3.	MQM-Pakistan	1	5
4.	PML-F	1	1
5.	Pk-MAP	2	5
6.	Independents	10	15
7.	PTI	6	12
8.	JI	1	2
9.	JUI-F	2	4
10.	NP	2	5
11.	ANP	-	1
12.	BNP-M	-	1
	Grand Total	52	104

Source: The researcher has drawn the table by retrieving the data from the *Daily Dawn*, March 3, 2018 (Islamabad).

The national parties usually compete general elections nationwide whereas the regional parties contest in their respective region or province only. Therefore, it is lack of popular support of regional parties that limits their representation in the Senate rather the electoral design, the STV system of PR. It is so because of the political orientation of the political parties in Pakistan. Although, the principle of equal regional representation in the Senate is applied but the regional parties or parties who belong to less populous provinces, especially the Balochistan, operate in the one province only whereas the PPP-P and the PML-N have larger support not only in their

respective support base, Sindh and the Punjab respectively, but they have also their support base in other provinces from where they managed to get the senators elected.

The more a party managed to grab the seats in the Provincial Assembly, the greater the degree of its proportionality in the Senate. The party position in all the three elections (2012, 2015 and 2018) suggests that the two larger parties (PPP-P and PML-N) has been dominant in the Senate whereas the smaller parties have been less in number in the Senate. During the years between 2012 and 2018, the two larger parties (the PPP-P and PML-N) were dominating in all the three federal political institutions, the executive branch, the Senate and the Assembly as it is manifested in the Table 4.9. The PPP-P has been in the government or majority party in the Assembly (as the majority party in Assembly forms the federal government) and in the Senate in the years between the 2012 and 2013. Similarly, the PML-N has been in government and majority party of the parliament during the years between 2013 and 2018.

Table: 4.9. Majority Parties in the Assembly and the Senate, 2012-2018

Party	Members in Assembly,		Returned Senators in Senate,	
	2012	2015	2012	2015
PPP-P	125	39	19	8
PML-N	92	157	8	18
PML	50	2	0	0
MQM-Pakistan	25	23	4	4
ANP	13	1	7	1
PML-F	5	6	1	0
BNP-A	1	1	2	0
IND	20	27	5	5
JUI-F	0	15	4	2
PML-Q	0	0	4	0

Source: The researcher has drawn this table by retrieving data from the websites of the National Assembly of and the Senate.

Despite these anomalies, the STV system of PR is convincingly best fit system to produce a proportional representation especially in the territorial chambers where the districts are larger but less in number. Similarly, in the case of the elections to the Senate of Pakistan, this system has potentially provided the smaller parties with an opportunity to get their members elected proportional to their voter support in the Provincial Assemblies. Arguably, the greater the proportional system, the greater the number of party diversity in a parliament. The greater the party diversity, the greater chances of power sharing or what in the words of Lijphart consociational democracy. The party diversity in a legislature contributes to the national policy consensus that is necessary for an ethno-regionally diverse federation like Pakistan where greater ethno-territorial cleavages exist. However, an electoral design such as PR resulting in party diversity combined with the overrepresentation to less populous provinces in Senate does not ensure the chances of national policy consensus, it is democratic behavior from within the parties that can produce a broader national policy consensus in Pakistani federation.

4.4 The Indirect Elections: The Senate of Pakistan Democratically Legitimate Second Chamber?

The indirect method to elect the members of the second chambers is used in the majority of democratic federations. Before the passage of the Seventeenth Amendment in 1913, the American Senate was also elected indirectly by the states' legislatures. Why did the founders of American constitution choose for indirect elections to the Senate? They suggested its two advantages: firstly, it would provide an opportunity for selecting party nominees; and, secondly, it can form a linkage between the two legislatures or the governments, the regional and the

national. James Madison provides justification for the indirect election to the Senate in following words:

The indirect election of senators] is recommended by the double advantage of favoring a select appointment, and of giving to the State governments such an agency in the formation of the federal government as must secure the authority of the former, and may form a convenient link between the two systems.⁵⁰

The founding father of America proposed four ways to elect the members of the senate in meeting at Philadelphia in 1787: firstly, senators to be elected by the members of the House; secondly, the national executive may elect them; thirdly, to be elected directly by the people; and fourthly, the state legislatures would elect them indirectly.⁵¹ The first two options were not opted to as it could not produce a second chamber which can effectively oversee the policies of the executive branch. The third option was rejected on the grounds that it may produce a replica of the House, the first chamber. They adopted the indirect method of selection by claiming that it would help produce a distinct and balanced second chamber, the Senate. The idea of balancing powers was achieved through bicameral central legislature where the House represented the principle of population or and the Senate represented the principle of territory. The idea of such balance propounded by the founders on the grounds that it would produce a central legislature what they ‘tended to conceive of society and politics in the classical category of the few and the many.’⁵²

The aristocratic element of American republicanism where the idea of mixed government, on the one hand, and the superiority of the wealthy or wise, on the other hand, approached the American model of federal-bicameralism. In bicameral federal legislature, the

⁵⁰ For more details see, James Madison, “*Federalist No. 62*,” available at Library of Congress, <https://guides.loc.gov/federalist-papers/text-61-70>.

⁵¹ Udit Bhatia “Indirect Elections as Constitutional Device of Epistocracy,” *International Journal of Constitutional Law*, Vol 20, No. 1 (2022), 82–111.

⁵² Luke Mayville, “Fear of the Few: John Adams and the Power Elite,” *Polity*, Vol 47, No. 1 (2015); 5-32, 8.

role of House was to resist the oligarchical elite of the Senate whereas the role of the Senate was to protect the wealthy or the property. The proponents of the mixed government conceptualized the Senate-House relationship by emphasizing on the different perspectives that would be brought by the members of the both houses in legislative processes. Therefore, the popular election to the House was adopted to bring necessary connection between the people and their rulers whereas the indirect election was adopted to the Senate to elect the men of wealth and wisdom. Putting it other way, the House represented the sensibility of people whereas Senate represented the firmness and knowledge.⁵³

Elections to the second chambers are held either, direct, indirect or mixture of indirect and direct. Direct elections are held to elect the members of the almost nineteen second chambers including the American⁵⁴ and Australian Senates whereas elsewhere the second chambers are chosen indirectly or mix method, direct and indirect.⁵⁵ Table. 4.10. shows the method of selection of second chambers.

Table: 4.10. Method of Selection for Second Chambers

Method of Selection	Number of Senates	%
Directly elected	19	31.1
Indirectly elected	12	19.7
Some elected directly, some indirectly	03	4.9
Some elected, some appointed	10	16.4
All appointed	17	27.9
Total	61	100.0

Source: Patterson and Mughan, Senates, 9

⁵³ Bhatia “Indirect Elections as Constitutional Device of Epistocracy,” 9.

⁵⁴ Though, prior to the passage of the Seventeenth Constitutional Amendment 1913, the senators were indirectly elected by the states’ legislatures.

⁵⁵ Patterson and Mughan, *Senates*, 5.

There exist several variants within indirect method. The members of the second chambers are elected by the state governments or legislatures or, in some cases, by the members of the national legislatures. Some of the examples of the indirect method variants are; Netherlands where members of the second chamber are chosen by the provincial councilors, several of the members of Indian second chambers are elected by the state legislatures and the provincial assemblies elected the members of Austrian second chamber.⁵⁶ Hence, the indirect method is overwhelmingly used to elect the members of the second chambers.

The indirect election system also increases the potential for an indirect form of accountability between the second chambers and the provincial institutions of which the former is representative of or associated with. The most common form of linkage between the provinces and the second chamber as well as an indirect mean of regional representation at federal level is indirect election of the second chamber by the provincial legislatures or assemblies.⁵⁷ The Constitution-makers of Pakistan presented similar justifications for adopting indirect elections to the Senate of Pakistan. They justified indirect election to the Senate by arguing that it would create a link between the provinces and the Senate as it was declared as the chamber of provinces. They decided to introduce the indirect system where the members of the Provincial Assembly were to elect the senators. Mr. Pirzada, the then law minister justified indirect selection methods as a mean of linkage between the Senate and its constituents, the provinces, in the following words: ‘The election to the Senate shall be by indirect franchise. That is to say the Senate Members shall be elected by the Provincial Assembly because the Senate is the representative of the Provinces. Therefore, Senate has to be elected by the Provincial Assembly

⁵⁶ R.L. Borthwick “Methods of Composition of Second Chambers,” *Journal of Legislative Studies*, Vol 7, No. 1 (2001); 19-26, 25.

⁵⁷ The second chambers elected on this principle include Austria, India, Netherlands and Spain, for more debate of the argument see, Russel, “The Territorial Role of the Second Chamber,” 108.

and by a single transferable vote.⁵⁸ Under the Article 59 of the Constitution of 1973 the members of the Provincial Assemblies indirectly elect the members the Senate of Pakistan.⁵⁹ The purpose behind constituting the Senate through indirect election by the Provincial Assemblies was to create linkage between the Senate and the Provincial Assemblies of which the Senate was associated with or representative of.

4.5 Equal Regional Representation and Indirect Selection Method: Political Consequences

The equal regional representation or overrepresentation to less populous regions⁶⁰ combined with the indirect election selection method contributes to the deficit of perceived political legitimacy of the second chambers.⁶¹ For understanding the political consequences of the equal regional representation in and indirect selection method to elect the members of the Senate of Pakistan, the following points needs to be noted.

Firstly, the basis of representation of the Senate are the regions or provinces. The regions are equally represented in the Senate that is to say the less populous provinces are massively overrepresented. They overrepresentation of smaller provinces, intended to have their strong voice at federal level, is taken by the more densely populated province, the Punjab, as its underrepresentation. Such imbalanced representation in Senate has allowed public and politicians to view it a ‘unrepresentative chamber’, despite the fact it is chosen by the

⁵⁸ *The National Assembly of Pakistan (Constitution Making) Debate*, Vol. II, No. 1-11, December 31, 1972, 11.

⁵⁹ *The Constitution of Pakistan, 1973 as modified upto May 31, 2018*, Art. 59.

⁶⁰ For more detailed discussion on the consequences of equal regional representation see, Frances E. Lee and Bruce I. Oppenheimer, *Sizing up the Senate: The Unequal Consequences of Equal Representation* (Chicago: University of Chicago Press, 1998).

⁶¹ For more detailed discussion on point that how the indirect method contributes to the legitimacy deficit of the second chambers see, Meg Russell, “Rethinking Bicameral Strength: A Three-Dimensional Approach,” *The Journal of Legislative Studies*, Vol. 19, No. 3 (2013); 370-391, 374-387.

proportional representation method. Such equal regional representation or overrepresentation to the less populous provinces has contributed to the deficit of political legitimacy of the Senate as a representative chamber of the provinces.

Second, one of the key objectives of the Senate is to provide an institutional link between the Provincial Assemblies and the federal Parliament or the two levels of governments, the provincial and the federal. This objective of linkage is achieved through the election of the senators by the members of the Provincial Assemblies. However, the linkage between the two would not be meaningful until there is no formal procedure for contact between the members of the provincial assemblies and the senators. The contact between the two is almost little. There is no evidence of linkage between two level of the governments, the federal and the provincial.⁶² As the matter of the fact, the inter-ministerial agreements are reached, between the provincial and federal governments, to secure the parties' interests not that of the provinces. The senators' role as the regional representative is side-lined by these inter-ministerial agreements that is to say actually an agreement between the two parties ruling at centre and the provinces.

Third, another problem this indirect method creates is the people or voters has developed less interests about the senators as they are perceived as no relevant in policy making processes and they are elected indirectly. They do not have direct contact with the people as the member of the assembly do have. It also contributes to the public's less engagement with the Senate as a political institution as the public do have less underrating regarding it as a representative

⁶² As there is no formal mean of contact between the two and there is no evidence that the senators have spent more time indebting regional issues in the senate business.

institution.⁶³ It is this fact that the senators are less known as the representative of provinces rather as the sole representatives of their political parties.

The directly elected second chamber may enjoy comparatively more political legitimacy than an indirectly chamber. However, the direct election does not potentially provide an automatic and direct link between the provinces and the second chambers as their representative. In indirect method may provide a stronger link between the provinces and the second chamber. Therefore, two propositions with regard to the indirect method are advanced: firstly, it does not provide a link automatically through periodic elections by the Provincial Assemblies only until the proper means of linkage between the Senate and the Provincial Assemblies are not devised;⁶⁴ and, secondly, the indirect method contributes to the deficit of democratic legitimacy of the Senate.

4.6 Political Recruitment: Role of Parties in Candidates' Selection and Senators' Election

In political clientelism,⁶⁵ the services (goods and money) are exchanged for political support whereas power or political brokerage⁶⁶ influences the electors to vote for a particular person or

⁶³ On the matter of relations between the indirect method and the democratic legitimacy deficit, a Committee of the Whole, a committee consisting the whole membership of the Senate, was formed in 2015 in which the majority of the members suggested direct selection method. They argued that it would not only enhances the democratic legitimacy of the Senate but also provide it with the political legitimacy to exercise the fiscal powers. *Report of the Committee of the Whole* on "Modes of Elections of Members of the Senate," (The Senate of Pakistan, May, 2016).

⁶⁴ The German and Spanish systems provide some ideas of linkage between two levels through right of members of the second chamber to speak in their respective assembly or region, right of members of the provincial assemblies to address in the second chambers. Meg Russel, *Reforming House of Lords: Lesson from Overseas* (Oxford: Oxford University Press, 2002), 204-221.

⁶⁵ The client politics is where the exchange of goods and services for political support, is often involved as an implicit or explicit quid-pro-quo. It is closely related to patronage politics and vote buying. Sharon Kettering, "The Historical Development of Political Clientelism," *The Journal of Interdisciplinary History*, Vol 18, No. 3 (1988) 419-447, 419.

⁶⁶ For political theorists, a power broker is a person who influences people to vote towards a particular client (i.e. elected official or referendum) in exchange for political and financial benefits. Power brokers can also negotiate

party in exchange of either financial or political benefits.⁶⁷ The way the candidates are identified and nominated for contesting the Senate election has greater implications for its democratic legitimacy and eventually the performance of the senators as the representatives of the provinces. In Pakistani case, it has become virtually an exclusive affair of party heads to identify and nominate the contesting candidates. The informal powers of the party heads have greatly influenced the legitimacy of the Senate. Let us restrict our argument here to the composition and role of the party head in candidates' nomination and its implication for Senate's political legitimacy. The process of candidates' identification and nomination revolves around two norms; political clientelism and political brokerage. Those candidates are shortlisted who have given a huge amount of money to party on the names of party funds. Similarly, the party functions as power broker as it informally bounds its members in the provincial assemblies to vote for their nominee. In exchange, the members of the provincial assemblies are rewarded with the economic and political benefits. Another category of the contesting candidates, a very handful number, is who are given the party ticket as a political reward for their long-time loyalty with the party at the end of their career. Therefore, they also remain more loyal to party policy or party head than to the interests of the provinces. In both the categories, the role of party head is central to select the candidates. Arguably, the successful candidates who were nominated through this process usually becomes the party representatives rather the representative of the provinces. Such selection process suggests the central role of parties in candidates' selection which not only contributes to the democratic legitimacy deficit of the senators but also greatly influences their

deals with other power brokers to meet their aims. The term is sometimes used for a non-elected person with political influence. Roberto M. Fernandez and Roger V. Gould, "A Dilemma of State Power: Brokerage and Influence in the National Health Policy Domain," *American Journal of Sociology*, Vol. 99, No. 6 (1994), 1455-149, 1456.

⁶⁷ Luis Roniger, "Political Clientelism, Democracy, and Market Economy," *Comparative Politics*, Vol 36, No. 3 (2004), 353-375.

performance or their legislative behaviour as the representative of the provinces, the latter is discussed in details in the sixth chapter.

The compositional distinctiveness of the Senate is manifested in the way it distributes the seats amongst the provinces and the election method through which its members are elected. The equal regional representation of the provinces explains their territory-based representation in the Senate whereas their population-based representation is manifested in the Assembly. Similarly, the indirect selection method of the senators by the provincial assemblies differentiates their representative role from that of the members of the Assembly who are elected directly on the principle of the one person one vote. However, such equal regional representation combined with the indirect selection method has created a problem of democratic legitimacy for the senators in the majoritarian nature of Pakistani federal parliamentarianism where the Assembly is directly elected on one person one vote basis. Similarly, the party's role in the Senate elections raises several questions regarding the competence of the senators to perform their function of regional representation independently and effectively. How the parties' interferences in the Senate's elections that eventually led to a deficit of democratic legitimacy of the senators combined with the party discipline, embedded in the Constitution of Pakistan, shapes the legislative behavior of the senators is assessed in the fifth and the sixth chapters.

Chapter 5

Non-Legislative Policy Work of the Senate of Pakistan:

Empirical Evidence and Appraisal, 2012-2018

The effectiveness of a federal second chamber can be measured by focusing on its active role in debating of and raising questions to the policies of the federal government in favour of its constituents, the provinces. The previous chapters have outlined the constitutional role and institutional strength of the Senate of Pakistan as a territorial chamber. The constitutional roles of the Senate are; to represent the interests of the provinces at federal level as a territorial chamber, to complement the National Assembly in federal legislation as a second legislative chamber of the federal parliament, to oversee the policies of the federal government, and, to perform the executive role in appointing the senior official of high rank federal offices. The Senate of Pakistan performs important non-legislative and legislative policy work as a federal second chamber of the federal parliament of Pakistan. Beyond the legislative business, the senators hold the government accountable by questioning the ministers concerned and debating the matters of public importance in the chamber. The Senate standing committees oversee the working of the federal ministries and present reports on it. The available parliamentary tools through which the senators perform the non-legislative policy work include questions (written or unwritten), calling attention notices, adjournment motions, resolutions, committee investigations and debating government policies in the chamber.

This chapter discusses the various forms of deliberation and executive accountability performed by the senators during the years between 2012 and 2018. It documents the extent of the use of these parliamentary tools by the senators as well as quantifies the non-legislative policy work to appraise its nature and subject-matter. The quantitative analysis of the senators' attendance is also provided to show the degree of their interest in the policy work of the Senate of Pakistan.

5.1 Attendance

The business of the Senate is transacted at two parliamentary forums; the chamber and the committees. The members can use these two forums to raise the voices of their electorates, the provinces and their people by actively participating in it. For such participation, a member first needs to ensure his or her presence in the Senate business to air the voices of its constituents in chamber and committees' work. The attendance of a member, therefore, provides a yard-stick that may help assess the degree of senators' interests in the Senate business. The Tables (5.1. 5.2. 5.3. and 5.4) are drawn to show the degree of the presence of the senators in the Senate business during the years under study.

Table. 5.1. Gender-wise Attendance of the Senators, 2016-2018

Parliamentary Year	Attendance in Percent	
	Male	Female
2016-2017	57%	53%
2017-2018	59%	63%

Source: Performance of Women Senators of Parliamentary (FAFEN Reports for the years 2016-2017 and 2017-2018).

Table. 5.2. Average Session-wise Attendance, 2017-2018

Serial Number	Session Number	Average Attendance in Percent	
		Male	Female
1.	260	60 %	64 %
2.	261	59 %	61 %
3.	262	62 %	51 %
4.	263	59 %	64 %
5.	264	67 %	66 %
6.	265	70 %	74 %
7.	266	62 %	64 %
8.	267	58 %	58 %
9.	268	86 %	89 %
10.	269	63 %	64 %
11.	270	57 %	58 %
12.	271	68 %	74 %
13.	272	66 %	63 %
14.	273	50 %	63 %
Overall Average		59 %	64 %

Source: Women Legislators' Performance (FAFEN Report for the year 2017-2018).

Table. 5.3. An Average Region-wise Attendance in Some Select Sessions, 2015

Session Number	119 th	Absent	Leave	Present
Territory	Balochistan	4	3	16
	FATA	2	1	5
	ICT	1	-	2
	KP	6	1	16
	Punjab	7	1	15
	Sindh	11	1	10
Session Number	120 th	Absent	Leave	Present
Territory	Balochistan	8	2	13
	FATA	2	-	6
	ICT	1	-	2
	KP	5	3	15
	Punjab	9	2	12
	Sindh	13	2	8
Session Number	121 st	Absent	Leave	Present
Territory	Balochistan	8	2	15
	FATA	3	-	5
	ICT	1	2	2
	KP	6	1	16
	Punjab	7	1	13
	Sindh	8	3	12

Source: Attendance of the Senate Members during 121th Session (FAFEN Session Monitor, November 3-13, 2015).

Table. 5.4. Average Party-wise Attendance during Twenty-First Session, 2015

Party	PM L-N	PPP- P	IND	MQM- Pak	PTI	ANP	JUI	PML	NP	Pk- MAP	BNP- A	BNP- M	JI	PML- F
Average number of members session	15	14	7	5	4	4	3	3	3	2	2	1	1	1

Source: Attendance of the Senate Members during 121th Session (FAFEN Session Monitor, November 3-13, 2015).

The analysis of the attendance of the members indicates three trends: firstly, the members from the smaller provinces have been more regular as compare to the members of the larger provinces; secondly, the senators belonging to smaller parties have been more regular in attending the sessions; thirdly, the women senators have been more regular than to their male counterparts in attending the sessions of the Senate. However, the mere presence does not mean that the members who have been more regular in attending the sessions have utilised this presence in performing their constitutional mandate of representing their constituents effectively. The presence matters if a member participates actively in the Senate’s business to secure the rights of his or her electorates. In a word, the presence needs to be manifested in utilizing the time in the transaction of the Senate business. In the following lines, the performance of the senators is appraised by assessing their active participation in non-legislative policy work of the Senate during the years under study.

5.2 Questions

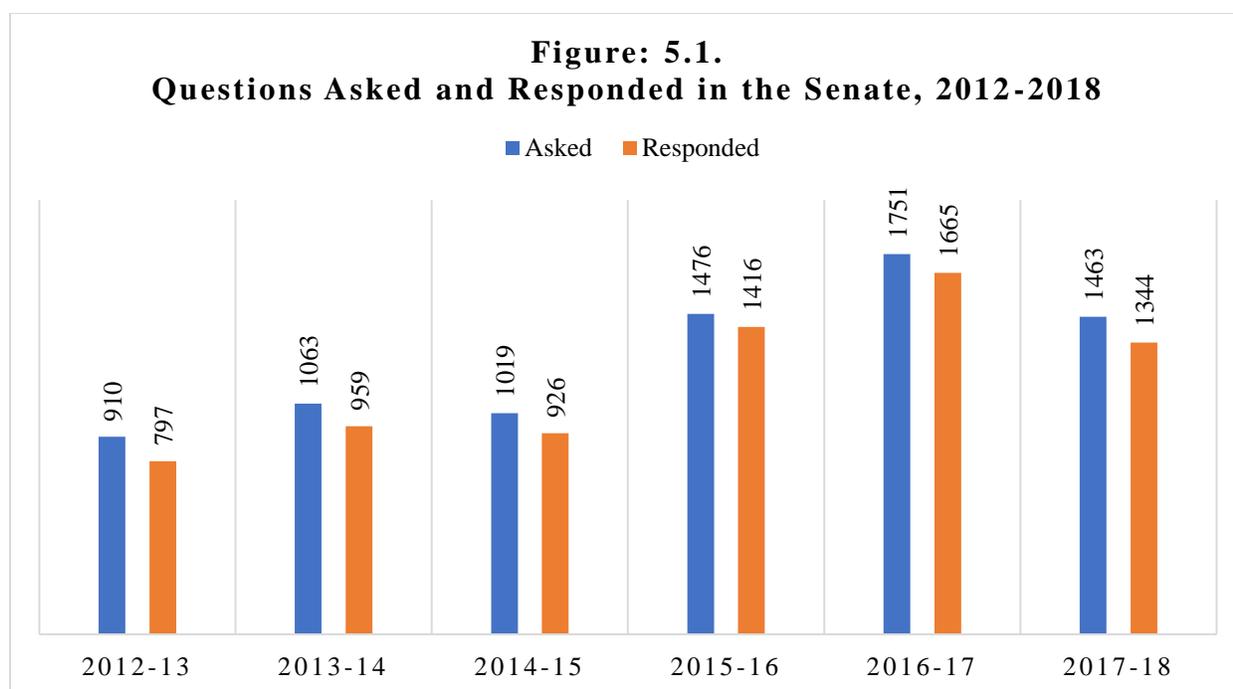
The senators perform the function of executive accountability by asking questions from the ministers concerned or to the prime minister. The *Rules of Procedure* in the Senate provides that ‘the first hour of every sitting shall be available for asking and answering of questions.’¹ The senators could address questions, oral or written, to federal minister regarding the matter of public importance as well as the affairs comes under the administration of a concerned ministry.² In addition to questions from federal ministers, the senators can also ask questions from the prime minister during the Prime Minister’s Zero Hour, a last hour of a sitting, to raise the matters of public importance, in the Senate. The prime minister is bound to respond to these questions whenever possible personally or, in case of prime minister’s absence, the federal minister concerned responses on the issue raised by the senators.³ The leader of the house, who acts as the representative of the prime minister, also responds to the questions of the senators on the behalf of the prime minister.

During the years under study, the senators held the government to account by raising questions to the ministers concerned on the matters of public importance in the Senate. The Figure. 5.1. quantifies the questions (oral and written) asked by the senators from the ministers concerned. It also provides information on the ratio of response to those questions by the concerned ministries.

¹ *Rules of Procedure and Conduct of Business in the Senate, 2012, Rule, 41.*

² *Rules of Procedure and Conduct of Business in the Senate, 2012, Rules, 41-59.*

³ *Rules of Procedure and Conduct of Business in the Senate, 2012, Rules, 61-63.*



Source: The researcher has drawn this chart by retrieving data form *Decade of Democracy in Pakistan*, 39.

The senators asked total 7682 questions and received 7143 answers during the six years between 2012 and 2018. The average of asked questions per parliamentary year is 1281 questions. The data in the Figure 5.1. shows that the government responded to around 71.43 percentage of the senators' questions in total during the years between 2012 and 2018. The figure of the response from the ministries concerned shows that the senators performed well in holding the government to account as the minister concerned remained present to respond the senators' questions. Another noticeable trend the figure suggests is that there has been an increase in asking questions by the senators and receiving government responses between the parliamentary years 2015-2016 to 2017-2018. Such increase was due to two reasons; firstly, the change in the leadership (chairmanship) of the Senate and the incongruence in the political composition of the two chambers of the federal parliament. Mian Raza Rabbani entered into the office as the chairman

of the Senate in March 2015. He gave several rulings⁴ that made the ministers to ensure their presence in the Senate to respond the questions of the senators. As the result of the 2013 general elections, the PML-N emerged as a majority party in the National Assembly and remained in government during the years between 2013 and 2018 whereas the PPP-P has been a majority party during the years between 2012 and 2018 in the Senate. Consequently, such political incongruence in the composition of the federal parliament combined with the active leadership of Mian Raza Rabbani, as the custodian of the Senate, contributed to increase the senators' active participation in holding the government to account through tabling more questions and forcing government to respond to them.

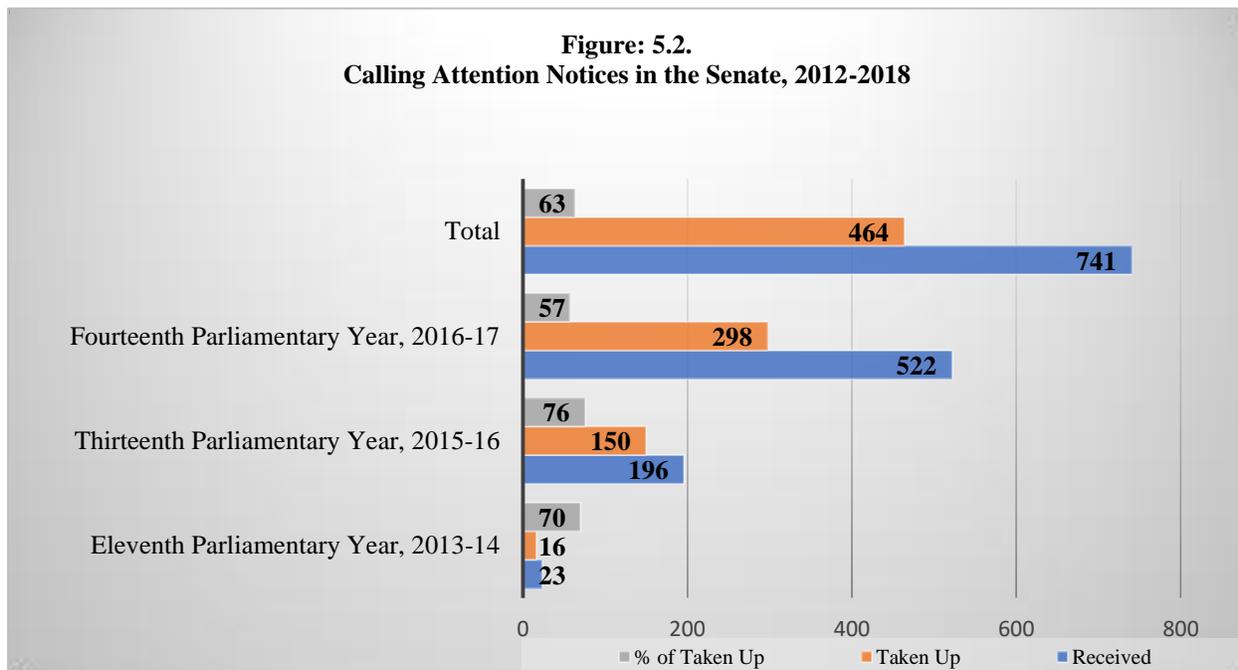
5.3 Calling Attention Notices

Amongst other, the calling attention notice is a parliamentary tool which the senators can use to draw the attention of the government or ministry concerned to a matter of public importance.⁵ The senators utilised this tool to raise the matters of public importance in the Senate. The Figure. 5.2. shows the degree of utilizing this tool by the senators to seek the attention of the federal government to the matters of public importance.

⁴ Mian Raza Rabbani as the Chairman of the Senate between years 2015 and 2018 gave several rulings in which he made sure not only ministers to be present during the questions hours and legislative business of the Senate but also asked the senators concerned who has tabled to question to remain present for responses. For details on such rulings see, The Senate of Pakistan, *Rulings of the Chairs*, Vol. IV, (Ruling dated on April 6th and 20th, 2015; May, 8th, 14th and 15th, 2015; November 10th, 2015; December, 23rd and 31st, 2015).

⁵ For detailed procedure on Calling Attention Notices see, *The Rule of Procedure and Conduct of Business in the Senate, 2012*, Rules, 64-69.

Figure: 5.2.
Calling Attention Notices in the Senate, 2012-2018



Source: *Performance of Senate* (FAFEN Report for the year 2013-2014); *Annual Reports of the Senate of Pakistan* (Official Senate Reports for the years 2015-2016 and 2017-2018).

In the eleventh parliamentary years (2013-2014), the members moved twenty-three calling attention notices in the Senate. Out of these twenty-three notices, sixteen were taken up by the Senate whereas rest seven remained unaddressed. The senators belonging to PPP-P tabled fifteen calling attention notices. Senator Syeda Sughra Imam and Senator Mian Rabbani tabled six calling attention notices each. Three other senators of the PPP-P namely Senator Mrs. Saeeda Iqbal tabled four followed by Senator Saeed Ghani with three and Senator Farhatullah Baber with two calling attention notices respectively. The members called attention of the Senate and the ministries concerned to the matters related to governance, terrorism, economic development, women right, human rights, foreign policy and energy sector issues.⁶ The figure shows that the PPP-P senators as movers of the notices have been more active in this year to draw the attention of the government and the Senate on the matters of the public importance. The themes or the

⁶ *Report on the Performance of the Senate, 2013-14* (Islamabad: The Senate of Pakistan, 2014).

subject-matter of the notices indicate that the issues related to their provinces, the citizens, and issues of national interests remained the matter of discussion in the Senate.

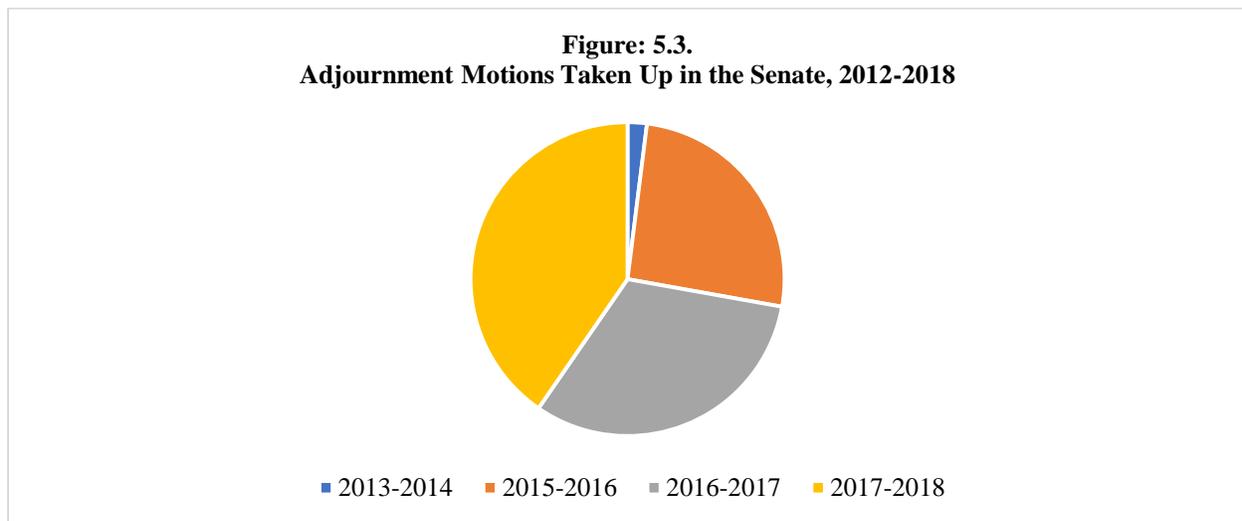
Out of total seven hundred and forty-one calling attention notices, seven hundred and eighteen were moved during the thirteenth (2015-2016) and fourteenth (2016-2017) parliamentary years. Such increase in raising the matters of public importance in the Senate during these two years reinforces the argument of change in the leadership of the Senate and the incongruence in the political composition of the federal parliament during these years. As mentioned above that Mian Raza Rabbani was in office as the chairman whereas the PML-N has been in government in these years. Thus, the senators were encouraged by the Chairman Senate, as it is the chairman who decides that which notices to be taken up in the Senate, to introduce the calling attention notices by the chairman Rabbani. Similarly, the incongruence in the composition of the parliament motivated the senators of opposition benches in the Senate to draw the attention of the government to the matters of the public importance during these years. The issues on which the members called the attention of the Senate and the ministers concerned included the registration of women voters, high tariff of electricity, delay in the merger of FATA into KP, child and women health issues, national security, and provinces' concern over the delay of introducing the NFC Awards.⁷

5.4 Adjournment Motions

With the consent of the chairman of the Senate of Pakistan, a senator can move an adjournment motion for a discussion in the Senate on a matter of public importance occurred recently to seek the attention of the federal government of Pakistan. Such motion is discussed on the floor of Senate with a prior consent of the chairman of the Senate to seek the attention of the ministry

⁷ *Decade of Democracy in Pakistan: Parliament, 2018-2018* (Islamabad: Friedrich-Ebert-Stiftung, 2018), 42-43.

concerned.⁸ After the admissibility of such motions with the approval of the members of the Senate, the Senate debates a matter raised in such motion and adjourn the usual business of the Senate. The senators utilised this tool effectively to highlight the issues of public importance. The Figure. 5.3. provides details on the adjournment motions taken up in the Senate between the years 2012 and 2018.



Source: The researcher has retrieved the data from *Annual Reports of the Senate of Pakistan* (Official Senate Reports for the years 2013-2014; 2015-2016; 2016-2017 and 2017-2018).

The data shown in the Figure 5.3. suggests that number of the motions taken in the Senate increased gradually in the years between 2015 and 2018. It validates the argument that the incongruence in the political composition and change in the chairmanship of the Senate played a substantial role in encouraging senators to participate actively in the legislative and non-legislative activity of the Senate to raise the issues of public importance as well as to hold the federal government to account during the years between 2012 and 2018.

⁸ *The Rule of Procedure and Conduct of Business in the Senate, 2012*, Rules, 85-93.

5.5 Resolutions

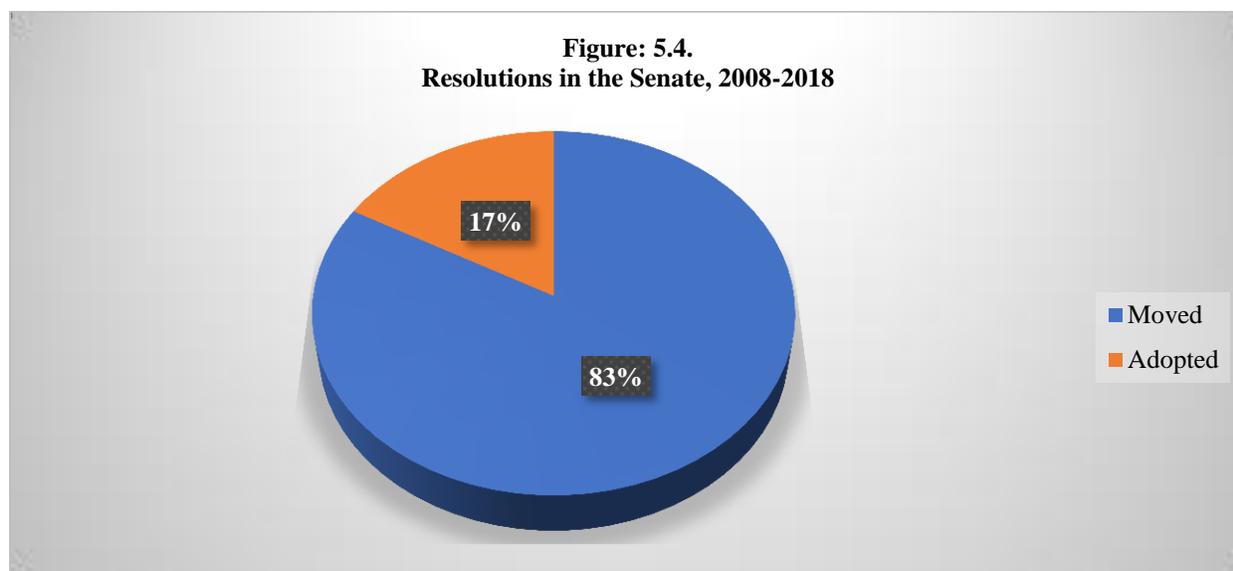
The resolution is a parliamentary tool through which a member expresses his or her opinion on the issues of a public importance in the Senate. It is a very useful parliamentary tool through which the Senate as a second legislative chamber expresses its opinion collectively. Under the rules of the Senate, there are two types of resolutions that can be adopted in the Senate; first type is resolutions mentioned in the Constitution;⁹ and, the second type is resolution not mentioned in the Constitution. A member enjoys the right to move a resolution not mentioned in the Constitution on a matter concerning the interest of the general public. In such resolutions, a member either expresses his or her opinion on or urge an action of the government on a matter of public interests. The chairman of the Senate holds the authority of deciding the admissibility or rejection to move such resolution in the Senate. After a detailed discussion on the issue, if the Senate passes such resolution, the copy of the same is forwarded to the ministry concerned which is bound to report the Senate about the action taken on the resolution.¹⁰ The senators utilised the floor of the Senate for raising the issues of public importance through these resolutions. The Figure 5.4. provides the details of resolution introduced and adopted in the Senate during the years between 2012 and 2018.

As per the data of the Figure 5.4. out of total seventeen hundred and twenty-three resolutions moved in the Senate, only three hundred and forty-nine were adopted during these years. Out of these seventeen hundred and twenty-three resolutions, twelve hundred and thirty-nine resolutions, which make about 75 percent of the total, were moved in the last three years between 2015 and 2018. During the years between 2008 and 2011, only three hundred and sixty-

⁹ The resolutions mentioned in the Constitution include; first, a resolution for the removal of the President; the second type of such resolution is for the disapproval or extension of Ordinances; and third type of resolution mentioned in the Constitution is for the approval of a Proclamation. *The Rule of Procedure and Conduct of Business in the Senate, 2012*, Rules, 144-149.

¹⁰ *The Rule of Procedure and Conduct of Business in the Senate, 2012*, Rules, 132-143.

one, out of which only twenty resolutions were adopted, resolutions were moved in the Senate. In the years between 2015 and 2018, the highest number, two hundred and ninety-eight, resolutions were adopted in the Senate.¹¹



Source: Decade of Democracy in Pakistan, 46.

The Senate passed important resolutions to call the attention of the government. The first important theme of the resolutions adopted in the Senate was the strengthening of the democracy in the country. For example, in August 2014, the Senate adopted a resolution refusing the demand of the resignation of the then an elected Prime Minister, Mian Muhammad Nawaz Sharif (r. 2013-2017), demanded by the PTI during its sit-in in Islamabad. In September 2017, the Senate adopted a resolution demanding for the establishment of the National Democracy Commission to strengthen the democratic norms and culture in the country.¹² Another example of such resolution was the passage of the resolution asking for the provision of adequate opportunities to make the citizen aware about the constitution and the democratic tradition in the

¹¹ *Decade of Democracy in Pakistan*, 45.

¹² Iftikhar A. Khan, "Senate Adopts A Pro-democracy Resolution," *Daily Dawn*, September 12, 2017 (Islamabad).

country.¹³ Similarly, the Senate passed a resolution remembering the forgotten political workers who have rendered their lives for the promotion of democracy in the country.

Second subject matter of the resolutions adopted in the Senate was highlighting the concerns of the provinces. In 2017, a unanimously adopted resolution demanded the empowerment of the Senate to protect the rights of the federating units.¹⁴ Similarly, the Senate demanded further amendment to nearly eleven Articles of the Constitution of Pakistan, 1973 to safeguard the interests of the provinces.¹⁵ The senators, being the representatives of the provinces' interests, demanded a constitutional amendment that may ensure a 'participatory federalism' in Pakistan. The senators also demanded that the chief ministers of the provinces be allowed to address the Senate to highlight the issue of the provinces at federal level. Similarly, they demanded that the Senate should be given the power to approve the extension of date of the NFC Award, if it could not be announced within the constitutionally fixed time period of five years. And, the Senate should be given the power to increase the share of provinces in the Award. The senators asked for the equal vote weightage to that of the members of the National Assembly on any legislation voted on in a joint sitting of the federal parliament. In addition, a resolution was passed to demand for a power of presiding a joint sitting, which is enjoyed by the Speaker of the Assembly only, of the parliament by the chairman of the Senate as well.¹⁶

The third main issue the senators raised in the resolution was the issue of missing persons. In March 2012, the Senate adopted a resolution declaring forced disappearances as a clear violation of the human rights or fundamental rights that are given to every citizen of

¹³ "Senate Adopts A Resolution to Enhance Citizens' Knowledge About the Constitution," *Daily Pakistan Today*, 11 September 2017 (Islamabad).

¹⁴ Amir, Wasim, "Senate Seeks Enhanced Role, Powers in Key State Affairs," *Daily Dawn*, 14 February 2017 (Islamabad).

¹⁵ Wasim, "Senate Seeks Enhanced Role."

¹⁶ Wasim, "Senate Seeks Enhanced Role."

Pakistan in the Constitution of Pakistan, 1973. Similarly, in 2018, the Senate adopted a resolution demanding the enactment of a law declaring enforced disappearances as a criminal practice.¹⁷

Amongst others, the subject-matter of the Senate resolutions remained focused on the matters such as barring a disqualified person to hold any office of a political party.¹⁸ In 2015, the Senate demanded a law empowering the parliament to review the suo moto taken by the Supreme Court of Pakistan.¹⁹ The Senate asked for observing December 16 as a Pakistan Children Day. The Senate also raised the issue of less developed provinces and demanded the allocation of about two to five percent of the CPEC funds to those provinces.

5.6 Committees' Work

The parliamentary committees play an important role in the policy of process and deliberations on the legislative business of a parliament.²⁰ The Senate committees perform an important role in the legislative scrutiny and oversight of the policy processes of the federal government. The committees as smaller units of work, provide an effective forum where the senators can deliberate on the interests of their constituents. There are three types of the Senate committees; standing committees, functional committees and special committees. For each federal ministry, there is a standing committee that oversees the policy works and expenditures of the respective

¹⁷ Sardar Sikander, "Senate Urges Govt to Criminalize Enforced Disappearances," *The Express Tribune*, August 30, 2018, (Islamabad).

¹⁸ Nadir Guramani, "Senate Amends Elections Act 2017, Bars Disqualified Persons From Political Activities," *Daily Dawn*, 23 October 2017, (Islamabad).

¹⁹ Irfan Haider, "Senate Adopts A Resolution Seeking Laws to Review Suo Moto Decisions," *Daily Dawn*, 14 September 2015, (Islamabad).

²⁰ For more detailed discussion on the committees' role in legislation and policy processes see, Marc Gaddes *Dramas at Westminster: Select Committees and Quest for Accountability* (Manchester: Manchester University Press, 2020). See also, Louise Thompson and Tony McNulty, "Committee Scrutiny of Legislation," in *Exploring Parliament* Cristina Leston-Bandeire and Louise Thompson eds. (Oxford: Oxford University Press, 2018), 90-100.

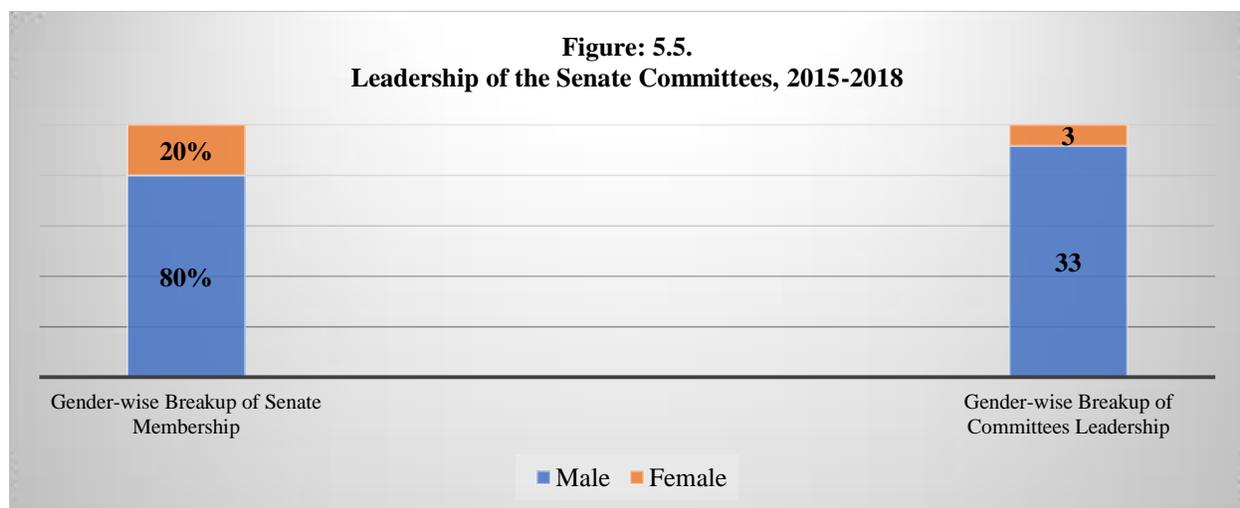
ministry. The functional committees' role is to perform a particular function assigned to it by the Senate. Some of the important functional committees include the Government Assurances Committee, Committee on the Problems of Less Developed Areas, Committee on the Human Rights, Devolution Committee and Committee on Delegated Legislation. The special committees are formed, with time to time, to deal with the issue of special attention of the Senate. Such committees are dissolved after the completion of their assigned task. The Senate's committees are considered its backbone where the important policy issues and legislation is deliberated upon. The committees also make the executive accountable to the citizens by holding enquiries and asking the minister concerned to respond on the policy concerning the public importance.²¹

The composition of the committees varies from a committee to a committee. The membership of a standing committee requires to be consisted of not be less than ten members and not more than the fourteen senators. The minister concerned acts as an ex-officio of the committee but the minister is not entitled to vote unless he or she is not the member of that committee.²² The members of each committee elect the chairman of the committee from amongst the members within the thirty days of the constitution of the committee.²³

²¹ The Chairman of a committee presides over the meetings and he/she can also may call or summon any Government functionary or related person for collecting evidence and explaining the matter under consideration. For more details on the composition and roles of the committees see, *The Rule of Procedure and Conduct of Business in the Senate, 2012*, Rules, 158-205.

²² *The Rule of Procedure and Conduct of Business in the Senate, 2012*, Rule, 165.

²³ *The Rule of Procedure and Conduct of Business in the Senate, 2012*, Rule, 175.



Source: *Decade of Democracy in Pakistan*, 130-31.

Conventionally, it is an informal agreement between the party heads or parliamentary party whips that decides the share of the chairmanship of the committees. Such mutual consensus between the parties sometimes results in unopposed selection of the chairmen as it happened in 2018 when the chairmen of about eight Senate committees were elected unopposed.²⁴ It is the party head who plays a key role in committees' composition as they informally suggest their members to be included to which committee and decide the chairmanship of which committee will go to which party. It is this process of selecting chairmen that contributes to their inability to perform their role effectively. Another challenge to the Senate committees to perform their role effectively is resistance from the concerned departments or the ministries that avoid to respond properly or timely on the one pretext or the other. In 2012, the Ministry of Defence opposed and tried to block a bill recommended by the sub-committee of the Senate seeking information from the Ministry. Similarly, the Supreme Court of Pakistan rejected to provide information of its

²⁴ *Daily Dawn*, May 13, 2015 (Islamabad).

accounts to and to be scrutinized by the PAC, a joint committee of the both houses of the parliament.²⁵

The Senate committees present reports to the Senate on the legislative and non-legislative matters referred to them. They also hold enquiries or investigation on the matters of public concerns. For that purpose, the committees can call the person concerned to collect the evidence. The reports of the committees are presented to the Senate where after a detailed discussion on it the Senate adopts the report and send the copy of the same to ministry concerned for the implementation of the recommendations suggested by the committee. The ministry concerned is bound to implement the recommendations of the committee. In case of failure to implement the recommendations, the decision of the Senate is considered binding and final.²⁶ The Table. 5.5. provides an overview of the performance of the Senate committees during the years under study.

Table: 5.5. Performance of the Senate Committees, 2012-2018

Serial Number	Committee Name	Chair of Committee	Province	Attendance %	Political Party	Parliamentary Year	Number of Meetings	Number of Bills Referred	Reports Presented
Standing Committees (March, 2015-March, 2017)									
1.	Defence	Mr. Mushahid Syed	Federal Capital	67%	(PML-N) Govt.	13 th (2015-16) 14 th (2016-17)	14 06	03 03	03 03
2.	Foreign Affairs	Ms. Nuzahat Sadiq	Punjab	74%	(PML-N) Govt.	13 th (2015-16) 14 th (2016-17)	06 08	02 01	02 01
3.	Planning and Development	Mr. Tahir Mashahadi	Sindh	63%	(MQM-Pak) Opp.	13 th (2015-16) 14 th (2016-17)	06 08	Zero Zero	Zero Zero
4.	Defence Production	Mr. Abdul Qayum	Punjab	63%	(PML-N) Govt.	13 th (2015-16) 14 th (2016-17)	08 04	Zero Zero	Zero Zero
5.	Petroleum and Natural Resources	Mr. Israrullah Zehri	Balochistan	20%	(BNP-A) Opp.	13 th (2015-16) 14 th (2016-17)	07 06	01 Zero	01 01
6.	Religious Affairs	Mr. Hafiz Hamadullah	Balochistan	69%	(JUI-F) Opp.	13 th (2015-16) 14 th (2016-17)	04 05	05 01	04 Zero
7.	Parliamentary Affairs	Mr. Saeed Ghani	Sindh	55%	(PPP-P) Opp.	13 th (2015-16) 14 th (2016-17)	02 05	01 01	01 01
8.	Ports and Shipping	Mr. Muhammad Ali Saif	Sindh	58%	(MQM-Pak) Opp.	13 th (2015-16) 14 th (2016-17)	01 05	Zero Zero	Zero Zero
9.	Information Technology and Telecommunication	Mr. Shahi Syed	Sindh		(ANP) Opp.	13 th (2015-16) 14 th (2016-17)	07 16	02 01	02 01

²⁵ *Decade of Democracy in Pakistan*, 63.

²⁶ *The Rule of Procedure and Conduct of Business in the Senate, 2012*, Rule, 196.

10.	Kashmir and Gilgat Baltistan Affairs	Mr. Sajid Mir	Punjab	69%	(PML-N) Govt.	13 th (2015-16) 14 th (2016-17)	06 06	Zero Zero	Zero Zero
11.	Cabinet Division	Mr. Talha Mahmud	KP	41%	(JUI-F) Opp.	13 th (2015-16) 14 th (2016-17)	19 27	Zero Zero	Zero 06
12.	States and Frontiers Regions	Mr. Hilal ur Rehman	FATA	57%	Indp. Opp.	13 th (2015-16) 14 th (2016-17)	08 11	Zero Zero	Zero 01
13.	Commerce	Mr. Shabli Faraz	KP	72%	(PTI) Opp.	13 th (2015-16) 14 th (2016-17)	16 11	03 02	03 02
14.	Law and Justice	Javeed Abbasi	KP	94%	(PML-N) Govt.	13 th (2015-16) 14 th (2016-17)	21 25	15 10	11 13
15.	National Food Security and Research	Mr. Muzafar Shah	Sindh	22%	(PML-F) Opp.	13 th (2015-16) 14 th (2016-17)	07 07	01 01	01 01
16.	Railways	Mr. Fateh Hasani	Balochistan	60%	(PPP-P) Opp.	13 th (2015-16) 14 th (2016-17)	05 06	01 Zero	Zero 01
17.	Communication s/ Postal Service	Mr. Daud Achakzai	Balochistan	94%	(ANP) Opp.	13 th (2015-16) 14 th (2016-17)	09 10	Zero Zero	Zero 01
18.	Finance, Revenue and Economic Affairs	Mr. Salim Mandivala	Sindh	83%	(PPP-P) Opp.	13 th (2015-16) 14 th (2016-17)	34 43	18 13	15 13
19.	Textile Industry	Mr. Mohsin Aziz	KP	48%	(PTI) Opp.	13 th (2015-16) 14 th (2016-17)	05 05	Zero Zero	Zero Zero
20.	Industries and Production	Mr. Hidayat Ullah	FATA	52%	(Indp) Opp.	13 th (2015-16) 14 th (2016-17)	10 11	Zero Zero	Zero Zero
21.	Interior and Narcotics	Mr. Rehman Malik	Sind	76%	(PPP-P) Opp.	13 th (2015-16) 14 th (2016-17)	16 13	03 13	03 05
22.	National Health Service, Regulations and Coordination	Mr. Sajid Turi	FATA	77%	Indp. Opp.	13 th (2015-16) 14 th (2016-17)	07 11	02 04	01 05
23.	Information, Broadcasting and National Heritage	Mr. Kamil Agha	Punjab	71%	(PML) Opp.	13 th (2015-16) 14 th (2016-17)	06 08	01 01	Zero Zero
24.	Inter-Provincial Coordination	Mr. Mushahid Ullah Khan	Punjab	41%	(PML-N) Govt.	13 th (2015-16) 14 th (2016-17)	07 05	Zero Zero	Zero Zero
25.	Overseas Pakistanis and Human Resource Development	Mr. Baz Khan	KP	45%	(ANP) Opp.	13 th (2015-16) 14 th (2016-17)	06 08	01 Zero	Zero Zero
26.	Science and Technology	Mr. Osman Saifullah	Federal Capital	33%	(PPP-P) Opp.	13 th (2015-16) 14 th (2016-17)	06 05	Zero 02	Zero 03
27.	Federal Education and Professional Training	Ms. Rahila Magsi	Federal Capital	16%	(PML-N) Govt.	14 th (2016-17)	03	Zero	Zero
28.	Climate Change	Mr. Yousaf Badini	Balochistan	54%	Indp. Opp.	14 th (2016-17)	07	01	01
29.	Housing and Works	Mr. Tanveerul Haq	Sindh	22%	(MQM-Pak)Opp.	14 th (2016-17)	09	Zero	Zero
30.	Water and Power	Mr. Yaqub Nasir	Balochistan	Not Available	(PML-N) Govt.	14 th (2016-17)	06	02	04

Special Committees (March, 2015-March, 2017)									
1.	Government Assurances	Mr. Shahbaz Durrani	Balochistan	61%	(PML-N) Govt.	13 th (2015-16) 14 th (2016-17)	04 04	Zero Zero	04 05
2.	Human Rights	Ms. Nasreen Jalil	Sindh	41%	(MQM-Pak)Opp.	13 th (2015-16) 14 th (2016-17)	12 17	Zero 03	08 05
3.	Devolution	Mr. Kabeer Shahi	Balochistan	66%	(NP) Opp.	13 th (2015-16) 14 th (2016-17)	N/A 18	Zero Zero	02 01
4.	Less Developed Areas	Mr. Usman Kakr	Balochistan	93%	(Pk-MAP) Opp.	13 th (2015-16) 14 th (2016-17)	13 25	N/A N/A	07 13
Other Committees (March, 2015-March, 2018)									
1.	Committee Rules of Procedures and Privileges	Mr. Jahanzeb Jamaldini	Balochistan	69%	(BNP-M) Opp.	13 th (2015-16) 14 th (2016-17)	16 16	08 11	17 11
2.	The House Business Advisory Committee	Mr. Mian Raza Rabbani	Sindh	100 %	(PPP-P) Opp.	13 th (2015-16) 14 th (2016-17)	N/A 22	N/A N/A	04 60
4.	Senate Committee on Delegated Legislation	Mr. Taj Haider	Sindh	76%	(PPP-P) Opp.	14 th (2016-17)	Zero	Zero	05
5.	Committee of the Whole	Mr. Mian Raza Rabbani	Sindh	100 %	(PPP-P) Opp.	May 2016-April 2018	09	Zero	05
6.	Senate Forum for Policy Research	Mr. Nayyer Hussain Bokhari	Federal Capital	Not Avai lable	(PPP-P) Opp.	2015-2018	N/A	N/A	05

Source: The researcher has compiled this table by consolidating data available in *Performance Reports of the Senate* (FAFEN for the years 2013-2014 and 2017-2018); *Annual Reports of Senate of Pakistan* (Official Reports of the Senate for the years 2015-2016 and 2016-2017). The data on chairmanship of the committees and political-provincial affiliations of the chairmen was retrieved from *Members' Directory, 2015-18* (Islamabad: Senate of Pakistan, 2017).

5.7 Policy Debates

Beyond holding account to the government by raising questions, tabling resolutions and moving calling attention resolutions, various non-legislative policy debates were held in the Senate of Pakistan during the years between 2012 and 2018. The Table 5.6. mentions some of the select policy debates of the Senate as well as it enlists the subject-matter of those debates. The subject matter of the policy debates revolved around the issues of foreign policy, national security, anti-terrorism laws, economic development of the country, development of less developed regions or the provinces, inter-institutional dialogues, developing legislative policy consensus and vie for the political crisis resolution through political debates in the parliament and beyond.

Table: 5.6. The Policy Debates in the Senate, 2012-2018

Issue	Policy Measure	Date
National Security/Anti-terrorism	a. A 20 Points National Action Plan, 2014 for countering terrorism and extremism b. Parliamentary Committees on National Security ²⁷ (March, 2012 onwards)	(24-12-2014)
Foreign Policy	a. Senate Committee of Whole's Prepared Policy Guidelines for Pakistan's Stance on Regional Realities and Role of United States b. Senate Committee of Whole's Report on Policy Guidelines for India-Pakistan Relations	(22-08-2017) (29-09-2016)
Economic Development	Parliamentary Committee on China-Pakistan Economic Corridor	(September, 2015)
Political Crisis Resolution	Joint Session of the Parliament to Develop Consensus for dealing with Sit-ins Demanding Dissolution of the Parliament	(02-09-2014)
Intra-institutional Dialogue	a. Chief Justice of Pakistan Addressed to the Senate Committee of Whole b. Chief of Army Staff Briefed to the Senate Committee of Whole	(11-03-2015) (19-12-2017)
Students' Political Rights	Senate Committee of Whole's Report on the Revival of Student Unions in Country	(12-02-2016)
Mainstreaming to and Constitutional Rights of Less Developed Areas	Senate Committee of Whole's Report on Supreme and High Courts (Extension of Jurisdiction to FATA) Bill, 2018	(15-09-2015)
Climate Change and Environmental Sustainability	National Disaster Management Authority Act, 2010 Senate Standing Committee on Climate Change, 2016	(11-12-2010) (June, 2016)

Source: The researcher has drawn this table by consulting the *Official Reports* (The Senate of Pakistan).

The senators developed consensus over the issues mentioned earlier above their party lines or regional affiliations. The *Rules of the Business* of the Senate were amended and a new committee, the Committee of the Whole House, was introduced in March 2015, to discuss the matters of the broader national importance. Under the Senate Rules, 'The House may constitute itself into a Committee of the Whole on a motion by the Leader of the House or Leader of the

²⁷ For details on its background of National Action Plan and Parliamentary Committee on National Security and policy debates in the Senate on these two see, *The Role and Workings of Parliament in Crisis Situations* (the Senate of Pakistan, 2018) 55-101.

Opposition, as the case may be.’²⁸ The Committee of the Whole House works as the other committees of the Senate and presents its reports, after its detailed discussion, for the further course of action on the matter discussed. The Committee of the Whole House debated a range of policy issues and suggested policy measures to the federal government. During the years under study, the Committee presented five policy reports dealing with issues of provinces and national importance.²⁹ However, the focus of the overall debate of the Senate remained on the issues of terrorism and extremism in the country during the years between 2012 and 2018.

5.8 The Senate as Chamber of Provinces: Policy Response to Socio-political and Economic Grievances

The Constitution of 1973 provides an important role to the Senate of Pakistan as the representative of the provinces. The Senate advances the administrative and economic concerns of the provinces in the federal parliament as well as influences the federal government’s economic policies in the favour of the provinces. Under the Constitution of Pakistan, 1973 the CCI is federal forum where the issues between the federation and the provinces are discussed and resolved. The CCI, an intergovernmental institution, is accountable to the federal parliament and bound to present its annual report to each house separately.³⁰ The economic interests of provinces are safeguarded through the two intergovernmental institutions namely the NEC and the NFC that resolve the financial issues between the two levels of government as well as

²⁸ *The Rule of Procedure and Conduct of Business in the Senate, 2012*, Rule., 172-A.

²⁹ The reports included: Supreme Court and High Court Extension of Jurisdiction to the FATA (2018); the Initial Response to the US President Afghan South Asia policy statement, (2017); the Need for the Revival of the Students’ Unions in the Educational Institutions (2017); the Mode of Election of the Members of the Senate, (2016); the Policy Guidelines in the view of Situation Developed between the India and Pakistan (2016). *The Committee of the Whole, Official Reports* (The Senate of Pakistan, dated 15-09-2012, 12-02-2016, 29-09-2016, 22-08-2017 and 19-12-2017).

³⁰ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 153.

redistribute the federal revenues amongst the provinces.³¹ The Senate of Pakistan as a territorial chamber oversees the fiscal policies of the federal government by holding accountable these two federal intergovernmental institutions that deal with the fiscal relations between the federal and the provincial governments.

The Eighteenth Constitutional Amendment extended, to some extent, the role of provinces in their financial and legislative autonomy. It restructured the role and composition of the CCI. Under the Amendment, the share of provinces in the federal revenues was increased as it renewed the pre-requisites for the NFC Awards. Many of previously federal ministries were devolved to provinces to ensure the provincial autonomy. It also fulfilled the demand of residents of the NWFP province to rename it as Khyber Pakhtunkhwa (KP). Under this background of devolution, the provinces were dissatisfied with the pace and process of implementing devolution envisioned in the Amendment. The Senate as a chamber of provinces responded to the demands of provinces, and adopted some policy measures to redress the socio-economic grievances of the provinces. For that purpose, the *Rules of Procedures in the Senate* were amended to introduce new committees (Committee on Devolution, Committee on Delegated Legislation, Committee on Problems of Less Developed Areas, Special Committee on CPEC and Committee on Human Rights). The Senate enacted new legislation to safeguard the constitutional rights of the provinces. Similarly, the Senate as an overseer of the government policies oversaw the performance of the CCI.

³¹ On post-Eighteenth Amendment federalism see, Aisha G. Pasha and Hafeez A. Pasha “Financial Implications of Devolution in Pakistan,” in *Making Federation at Work: Federalism in Pakistan After the 18th Amendment*, Asma Faiz ed. (Karachi: Oxford University Press, 2015), 121-141.

5.8.1 Functional Committee on Devolution

The Committee on Devolution was formed with its mandate: to ensure the devolution plan envisioned in the Constitution of Pakistan, 1973; to oversee the deviation, if there was any, in the implementation of financial and legislative devolution as per the devolution scheme of the Eighteenth Amendment; to coordinate between the concerned departments of provincial and federal government regarding the implementation of the devolution plan and make recommendations accordingly.³²

The Committee under the chairmanship of Senator Mir Kabir of National Party aired the concerns of the provinces before the concerned federal ministries which responded to the grievances of the provinces. It proved as a productive platform between the provincial and federal governments to coordinate with each other for ensuring a participatory federalism. In response to the concerns of the provinces, the Committee made recommendations to concerned federal ministries: Some of the key measure taken in regard included the transfer of federal employees of devolved ministries to respective provinces and issuing of funds for their training. It also presented report in which the recommendations were made to strengthen the local government which had become the subject of provinces under the Eighteenth Amendment of 2010.³³

5.8.2 Functional Committee on Delegated Legislation

Another committee the Committee on Delegated Legislation was formed to ensure whether the powers either delegated by the Parliament to provinces developed by the Constitution of Pakistan, 1973 were ‘timely and properly exercised within such conferment or delegation, as the

³² *The Rule of Procedure and Conduct of Business in the Senate, 2012*, Rule, 162-A.

³³ For the performance of the Committee see, *Report of the Functional Committee on Devolution, March 2016-March 2018* (Islamabad: The Senate of Pakistan, 2018).

case may be.³⁴ For that matter, it was mandated to oversee all existing laws and propose new legislation. It was made bound to present its quarterly reports on its performance to the Senate. Senator Taj Haider of PPP-P was the chairman of Committee on Delegated Legislation. The Committee held its meetings frequently where discussed agenda items pertaining to its constitutional role. It also presented its quarterly performance reports regularly in which recommendations were made to the Senate for ensuring a timely exercise of delegated legislation.³⁵

5.8.3 Functional Committee on Problems of Less Developed Areas

The Functional Committee on Problems of Less Developed Areas was introduced with its constitutional role to identify the grievances of the less developed areas and make recommendations on them for a balanced socio-economic growth of the provinces.³⁶ The Committee actively performed its constitutional role under the chairmanship of Senator Usman Kakar of Pk-MAP. Firstly, it mapped some of areas from all the provinces that were lacking the basic facilities such as (water, education, health and gas) and declared them as less developed areas.³⁷ The Committee paid many visits to those areas and made recommendations to concerned federal ministries for allocating special money grants to improve the life style of the residents of those areas.³⁸

³⁴ *The Rule of Procedure and Conduct of Business in the Senate, 2012*, Rule, 172-C.

³⁵ For the performance of the Committee see, *Report of the Functional Committee on Delegated Legislation, October-December 2016; January-March 2017; April-June, 2017; July-September, 2017; and, January-March, 2018* (Islamabad: The Senate of Pakistan).

³⁶ *The Rule of Procedure and Conduct of Business in the Senate, 2012*, Rule, 160.

³⁷ It identified districts as less developed areas included (Layyah, Muzaffargarh, Rajanpur and Lodhran from the Punjab province; Tharparkar, Sanghar, Kashmore, Dadu and Jacobabad from Sindh province; amongst others, Buner, Laki Marwat, Chitral, Bannu and Upper Dir from KP province; entire of Balochistan except for Quetta; all the districts of FATA and Kashmir).

³⁸ For the performance of the Committee see, *Reports of the Functional Committee on Problems of Less Developed Areas, June 2012 to Demeter 2014 and March 2015 to February 2018* (Islamabad: The Senate of Pakistan).

5.8.4 Special Committee on CPEC

In April 2013, a series of agreements valued at \$46 billion was signed between the Nawaz Sharif, the Prime Minister of Pakistan and Xi Jinping, the President of China, to launch a mega bilateral project, the CPEC.³⁹ The purpose for launching this project was not only to improve Pakistani infrastructure but also to provide a better trade route to China for its connectivity to South Asia and Eurasia.

The smaller provinces of Pakistan especially Balochistan had reservations on the CPEC routes and its share in those projects. To address the grievances of the provinces, a Special Committee on CPEC was formed in the Senate. The purpose of the Committee was to oversee the development projects of the CPEC and redress the grievances of the stakeholders. During the period under study, Senator Taj Haider, the convener of the Committee, presented four reports to the Senate. In November 2017, the Committee paid an official visit to China where matters of mutual interests were discussed with the Chinese authorities.⁴⁰ Similarly, it raised the grievances of the provinces before the federal government on the issue of Agreed Western Route, a route connecting China to Gwadar via Punjab and Balochistan. It helped develop a political consensus between the province of Balochistan and federal government. It made recommendations to federal government for ensuring speedy completion of Western Route.⁴¹ In another its report, the Committee made recommendations to the Gwadar Development Authority for ensuring speedy settlement of displaced persons and providing them with basic amenities including schools, hospitals, electricity and clean drinking-water.⁴²

³⁹ Sun Weidong, "Pakistan-China Relations: CPEC and Beyond," *Policy Perspectives*, Vol 14, No. 2 (2017); 3-12, 5.

⁴⁰ *Report of the Special Committee on CPEC, November 2017* (Islamabad: The Senate of Pakistan, 2017).

⁴¹ *Report of the Special Committee on CPEC, 2016* (Islamabad: The Senate of Pakistan, 2016).

⁴² *Report of the Special Committee on CPEC, May 2017* (Islamabad: The Senate of Pakistan, 2017).

5.8.5 Special Committee on Human Rights

The Constitution of Pakistan, 1973 provides fundamental rights to every citizen of Pakistan without any discrimination of race, religion and ethnicity.⁴³ The human rights given by Constitution includes the safety of life and property of every citizen. Similarly, every citizen enjoys the right of freedom of expression, association, movement, profession and education. However, the violation of human rights has not been uncommon in Pakistan. The underprivileged segments of society especially the religious minorities, majority of whom living in Sindh and Balochistan, were victim of human rights violation. The issue of forced disappearances of Balochs has remained a bone of contention between the people of Balochistan and federal government.

In this backdrop, the Senate raised the concerns of the less-privileged segments of the provinces especially the people of Balochistan. A Special Committee on Human Rights was formed to identify the human rights violation and made legislation for redressing such violations.⁴⁴ The Committee held many meetings and paid visits to less developed areas to identify the human rights violations. It also proposed many pieces of new legislation which were enacted by the Senate to stop such violations. The Committee presented sixteenth reports in which it made recommendations on issues related to forced conversion of Hindus, missing persons, protection of transgender persons and incidents of child abuse. The recommendation of the Committee were later enacted as acts of parliament.⁴⁵

⁴³ *The Constitution of Pakistan, 1973*, Arts. 8-28.

⁴⁴ *The Rule of Procedure and Conduct of Business in the Senate, 2012*, Rule, 161.

⁴⁵ Some of the Acts enacted on human rights included *The Hindu Marriage Act, 2017*; *The Transgender (Protection of Rights) Act, 2017*; *The Protection Against Harassment of Women at Workplace, 2016*. For more details, see, *The Report of the Senate Functional Committee on Human Rights May 2015 to February 2018* (Islamabad: The Senate of Pakistan, 2018).

5.8.6 Legislation

The north-western region, FATA, was a tribal area of Pakistan. It did not have a constitutional status of a full-fledge autonomous province. Before its merger with KP in 2018, the federal government has been directly governing under the special laws, FCR, a British enacted law to govern this region during British India.⁴⁶ The Committee of Whole of the Senate debated the issue of mainstreaming FATA and enacted *the Supreme Court and High Court Extension Act, 2018*. The Act extended the jurisdiction of both the Supreme Court of Pakistan and Peshawar High Court to the region.⁴⁷ The Committee also proposed the merger of FATA into the KP. For that matter, the Twenty-fifth Constitutional Amendment, was enacted which constitutionally merged FATA into KP in 2018.⁴⁸ With enacting these two landmark pieces of legislation, the Senate principally contributed in mainstreaming FATA.

5.8.7 Debate on Reports of the Council of Common Interests

Under the Constitution of Pakistan 1973, the CCI is federal forum where the issues between the federation and the provinces are discussed and resolved. The CCI, an intergovernmental institution, is accountable to the federal parliament and bound to present its annual report to each house separately.⁴⁹ The CCI primarily regulates the matters come under the Federal Legislative List II,⁵⁰ that deals with the subjects of the provinces, and it oversees institutions those are related to these subjects. The provinces can request the prime minister to call a meeting of the Council to

⁴⁶ For details on the law see, Benjamin D. Hopkins, "The Frontier Crimes Regulation and Frontier Governmentality," *The Journal of Asian Studies*, Vol 74, No. 2 (May 2015), 369-389.

⁴⁷ *Report of the Committee of the Whole of the Senate on The Supreme Court and High Court (Extension of Jurisdiction to Federally Administrated Tribal Areas) Act, 2018* (Islamabad: Senate of Pakistan, 2018).

⁴⁸ *Constitution (Twenty-Fifth Amendment) Act, 2018 (The Gazette of Pakistan, June 5, 2018)*.

⁴⁹ *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 153.

⁵⁰ *The Constitution of Pakistan as modified up to May 31, 2018*, Fourth Schedule.

discuss any matter of urgency. The provincial governments can also make complaints regarding the distribution of water and electricity.⁵¹ The parliament, in its joint sitting can also give directions, through the federal government, to the Council on a general or a particular matter for a due action and such directions are binding on the Council.⁵² Precisely, it is an institutional mechanism for resolving the administrative disputes between the centre and the provinces as well a forum for the latter to advance their concerns at federal level.

Looking at the functions of the Council, it provides the Senate with a forum to advance the concerns of the provinces at federal level in two ways; firstly, it can influence the policies of the federal government in the favour of the provinces by debating and overseeing its annual reports; secondly, it can raise the concerns of the provinces in a joint sitting to be called on to direct the federal government on any matter of provinces' interests. After the passage of the Eighteenth Amendment, the role of the Council has been expanded.⁵³ The Senate as a territorial chamber raised the matters of provincial concerns at this forum by debating the annual reports of the Council. The Chairman of the Senate also gave a detailed ruling on its functions with regard to its constitutional role in safeguarding the interests of the provinces.⁵⁴ The Table. 5.7. provides details on the Council's reports that were presented to the Senate in years between 2010 and 2020.

⁵¹ *The Constitution of Pakistan as modified up to May 31, 2018*, Arts. 155 and 157.

⁵² *The Constitution of Pakistan as modified up to May 31, 2018*, Art. 154.

⁵³ Zafarullah Khan, "Future of Pakistani Federation: A Case Study of the Council of Common Interests," in *Making Federation at Work: Federalism in Pakistan After the 18th Amendment*, Asma Faiz ed. (Karachi: Oxford University Press, 2015), 146-160.

⁵⁴ *Ruling of the Chair*, The Senate of Pakistan, dated February 12, 2015.

Table: 5.7. The Annul Reports of the Council laid before the Senate, 2010-2020

Reporting Year	Number of Meetings	Items Discussed	Report Submission Status
2010-2011	06	36	Submitted
2011-2012	02	13	Submitted
2012-2013	03	18	Submitted
2013-2014	04	18	Submitted
2014-2015	01	09	Submitted
2015-2016	02	11	Submitted
2016-2017	02	10	Submitted
2017-2018	07	37	Submitted
2018-2019	02	13	Submitted
2019-2020	01	23	Submitted

Source: Irfan Khan, Hassan Shah and Sajjad Ali, “Political Economy of Conflict: An Analysis of Council of Common Interests in the Post-18th Constitutional Amendment,” *Turkish Online Journal of Qualitative Inquiry*, Vol 12, No. 8, (July 2021); 7888.

The Senate of Pakistan comparatively performed more active role as a territorial chamber in airing the voices of the provinces in its non-legislative policy work. The senators made use of available parliamentary tools to oversee the non-legislative policy work of the federal government during the years between 2015 and 2018 as compare to in the years between 2012 and 2015. The legislative policy work and oversight of the government increased during the period as it is manifested in the senators’ activity who asked more questions from the minister concerned and debated the policies of the federal government. The chapter sixth appraises their performance in the legislative policy work where they oversaw the legislative policy work of the federal government by suggesting amendments to government bills and actively participating in the legislative business of the Senate.

Chapter 6

Legislative Policy Work of the Senate of Pakistan:

Empirical Evidence and Appraisal, 2012-2018

The primary role a legislative body is to make laws for the betterment of its constituents. This chapter presents a quantitative analysis of the legislative policy work of the Senate. It also provides a qualitative analysis of legislative bills discussed in the Senate as well as their subject-matter that would indicate the nature and patterns of legislative activity transacted during the years between 2012 and 2018. The focus of this chapter is on bills seeking an amendment to the federal constitution as it can provide a proxy to understand the voting behavior of the senators. It is voting on the bill, seeking a constitutional amendment, where count of the vote is made and the result is declared openly. Similarly, it is a bill seeking a constitutional amendment where the party discipline, embedded in the Constitution, is applied. In case of ordinary legislation neither the record of voting is declared nor the party discipline is applied. The more qualified questions raised in this chapter are; did the senators use their constitutional powers effectively to amend the government legislation? what was the nature and subject-matter of legislative business transacted in the Senate? And, what were the factors that impeded or encouraged senators to perform their constitutional roles effectively? And, how did they respond to those impeding factors?

6.1 Legislative Business in the Senate, 2012-2018: An Overview

The legislative business in the Senate is of two types: firstly, fresh bills that are meant to introduce a new law or amend the existing laws; secondly, ordinances which are treated as bills when laid for Senate's approval. Thus, the legislation took places through two types of bills: firstly, the fresh bills; and, secondly, the ordinances which required an approval of the Senate to become a permanent law. The bills, either a new or laid as an ordinance, becomes an act of the parliament after their passage from the both chambers of the federal parliament.

This section provides a statistical breakdown and thematic appraisal of the legislative business transacted in the Senate during the reporting period, 12 March, 2012 to 11 March, 2018. The period was consisted of six parliamentary years starting from tenth parliamentary year (2012-2013) to ending with the fifteenth parliamentary year (2017-2018). During the period, total seventy-five sessions, from 200th to 274th, of the Senate were held. The total actual sitting days of the Senate were five hundred and twenty-nine days. The average actual sitting days of each session has been seven days per session. The actual average annual sitting days of the Senate has been eighty-eight days. The Senate as a legislative body, has been highly active in the thirteen parliamentary years, (2015-2016) with one hundred and three actual sitting days whereas it has been less active in the eleventh parliamentary years, (2013-2014) with sixty-three actual sitting days only. Similarly, the Senate has been more active during the chairmanship (March 2015 to March 2018) of Mr. Mian Raza Rabbani with two hundred and ninety-six actual sitting days whereas the Senate seems less active during the chairmanship (March 2012 to March 2015) of Mr. Syed Nayyer Hussain Bokahri with two hundred and thirty-three actual sitting days. The Table. 6.1. summarizes the legislative business of the Senate transacted during the reporting period.

Table: 6.1. Statistical Summary of the Legislative Business of the Senate, 2012-2018

Sr. No.	Indicator	Number
Sittings of the House		
1.	Parliamentary Years (10 th to 15 th)	06
2.	Sessions (200 th to 274 th)	75
3.	Actual Sittings Days	529
4.	Average Per Year Actual Sittings Days	88
5.	Average Per Session Actual Sittings Days	07
6.	Highly Active Parliamentary Year (103 Actual Sitting Days)	13 th (2015-16)
7.	Less Active Parliamentary Year (63 Actual Sitting Days)	11 th (2013-14)
Legislation*		
1	Total Bills Introduced	316
2.	Government Bills	130
3.	Private Members' Bill	186
1.	Total Bills Passed	103
2.	Government Bills	69
3.	Private Members' Bills	34
Committees*		
1.	Number of Standing Committees	26 (2015-16) 32 (2016-17)
	a. Number of Meetings	662
	b. Number of Bills Referred	138
	c. Number of Reports Laid to the House	592
1.	Number of Functional Committees	04 (2015-16) 06 (2016-17)
	a. Number of Meetings	83
	b. Number of Reports Laid or Issues Taken up	85
1.	Number of Other/Special/House Committees	08
	a. Number of Reports Laid or Issues Taken up	59

Source: The researcher has compiled the table by consolidating data on period under study available in the *Senate Hansard* and *Annual Reports of the Senate* (Official Reports for the years 2015-2016 and 2016-2017).

6.2 Bills

During the years under study, out of total 316 bills introduced in the Senate 130 were introduced by the government members whereas 186 were introduced by the private members. Out of these 316 introduced bills, 103 could get passed in the Senate. Out of 103 total passed bills, 69 were

* Not included 10th (2012-13) and 12th (2014-15)

* Not included 10th (2012-13) and 12th (2014-15); in number of committees not available (2013-14 and 2017-18), in meetings not available (2013-14 and 2017-18), in leg business referred not available 2013-14,

government members' bills whereas rest 34 passed bills were private members' bills. The Tables 6.2. and 6.3. provides the number of the government and private members' bills passed in the Senate during the period under study.

Table: 6.2. Government Bills Introduced and Passed in the Senate, 2012-2018

Parliamentary Years	Eleventh (2013-14)	Twelfth (2015-16)	Thirteenth (2016-17)	Fourteenth (2017-18)	Total
Government Bills Introduced	6	36	49	39	130
Government Bills Passed	0	6	30	33	69

Source: The researcher has drawn the table by consolidating data available in *Senate Performance Reports* (FAFEN for the years 2013-2014 and 2017-2018) and *Annual Senate Reports* (Official Reports for the years 2015-2016 and 2016-2017).

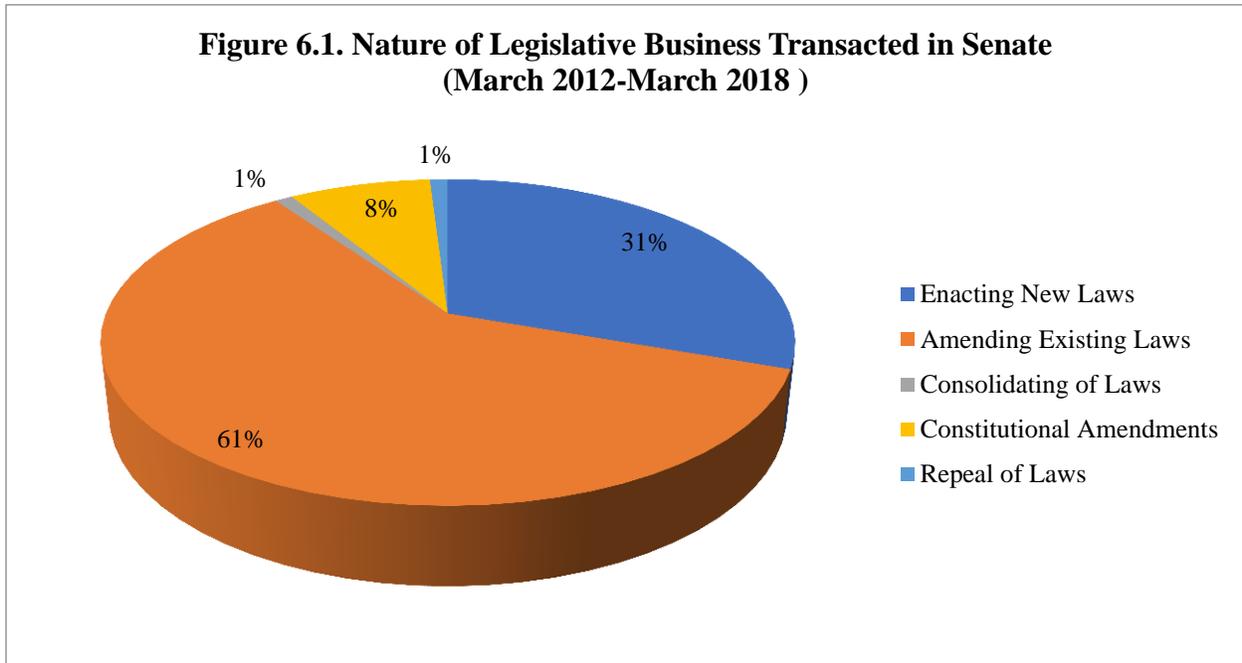
Table: 6.3. Private Bills Introduced and Passed in the Senate, 2012-2018

Parliamentary Years	Eleventh (2013-14)	Twelfth (2015-16)	Thirteenth (2016-17)	Fourteenth (2017-18)	Total
Private Members' Bills Introduced	25	16	45	100	186
Private Members' Bills Passed	2	9	4	17	34

Source: The researcher has drawn the table by consolidating data available in *Senate Performance Reports* (FAFEN for the years 2013-2014 and 2017-2018) and *Annual Senate Reports* (Official Reports for the years 2015-2016 and 2016-2017).

The Tables 6.2. and 6.3. suggests that the government dominated in the legislative business of the Senate during the period under study as it introduced more bills and got them passed as compare to those of the private members' bills. The nature of the legislative business of the Senate can be divided into following categories; enacting new laws, amending exiting laws, consolidating laws, bills to amend the federal constitution or bills to repeal the existing laws. The

Figure 6.1. shows a legislative trend where the majority of the bills introduced was to amend the existing laws followed by introducing the new laws.*

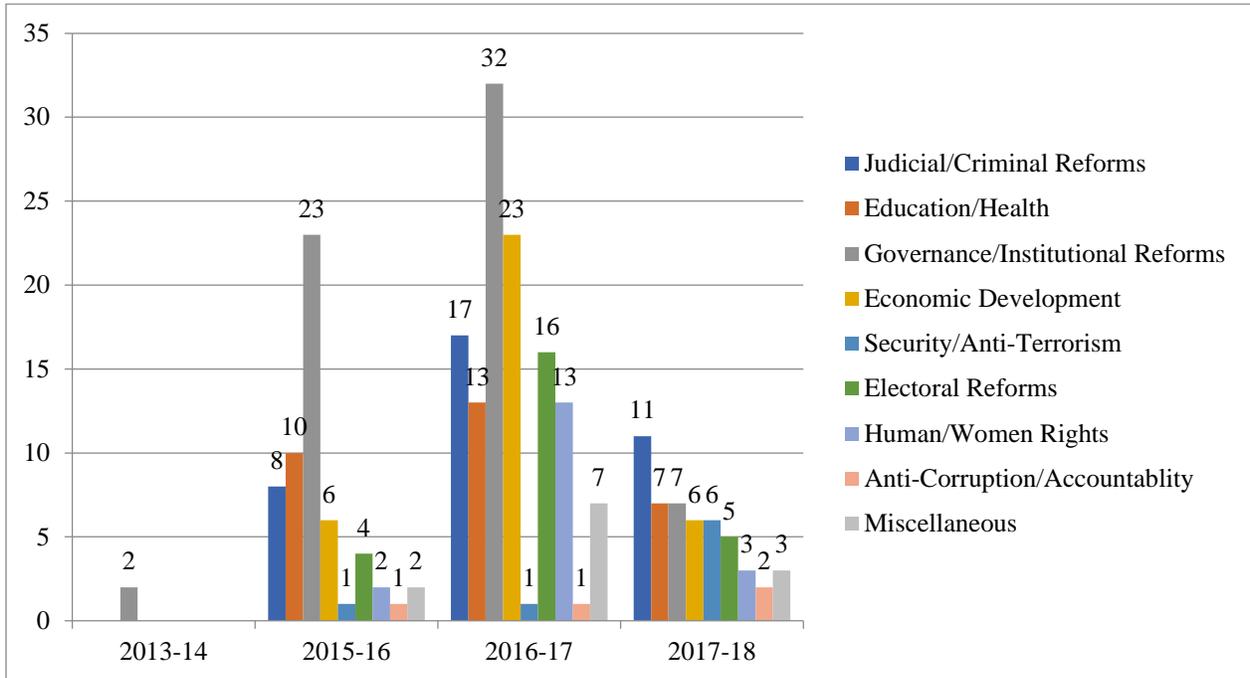


Source: The researcher has retrieved the data to compile these tables from the *Senate Hansard* (the Senate of Pakistan) of the years under study.

The subject-matter of the bills introduced in the Senate was as follows; bills to introduce judicial reforms, bills to introduce health and educational reforms, economic development, governance, electoral reforms, anti-corruption or accountability and human rights. The main focus of the bills during the years under study has been governance followed by anti-terrorism and electoral reforms laws. The senators were more active in introducing legislation in the parliamentary years 2016 and 2017 as it is manifested in the Figure 6.2.

* In the Figure, the data on 10th (2012-13) and 12th (2014-15) Parliamentary Years is not included.

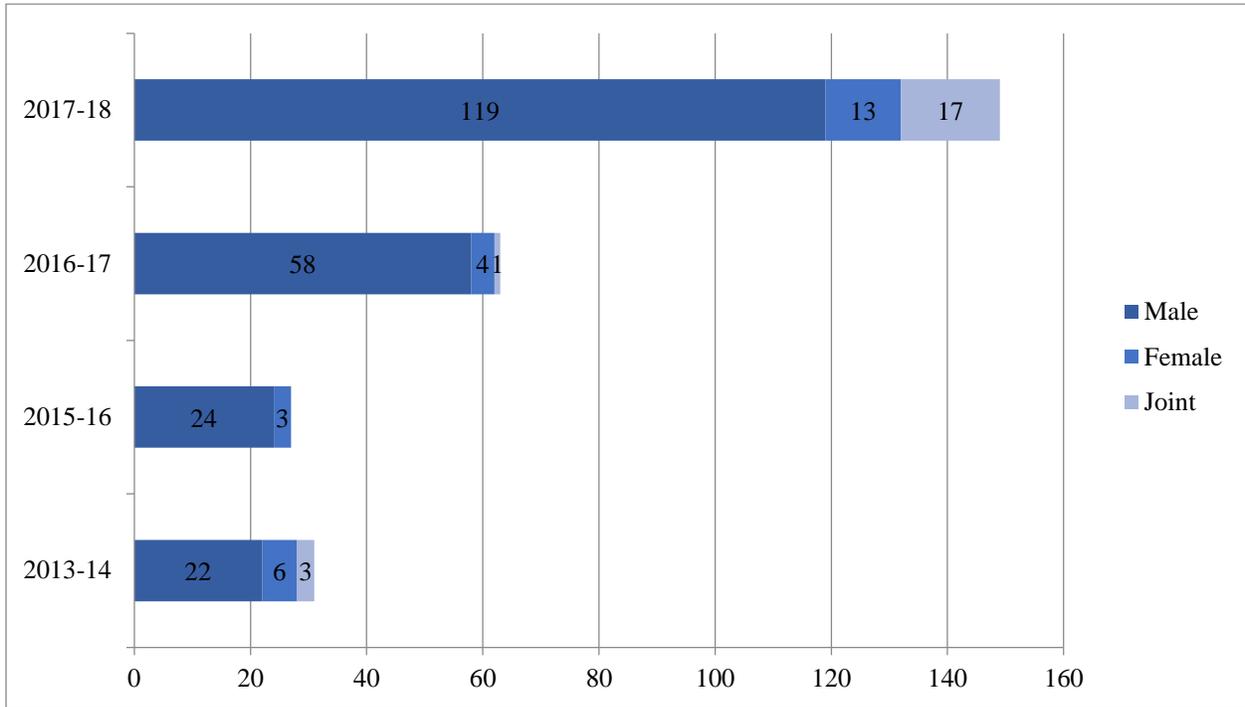
Figure 6.2. Thematic Breakdown of the Legislative Business, 2012-2018



Source: The researcher has retrieved the data to compile these tables from the *Senate Hansard* (the Senate of Pakistan) of the years under study.

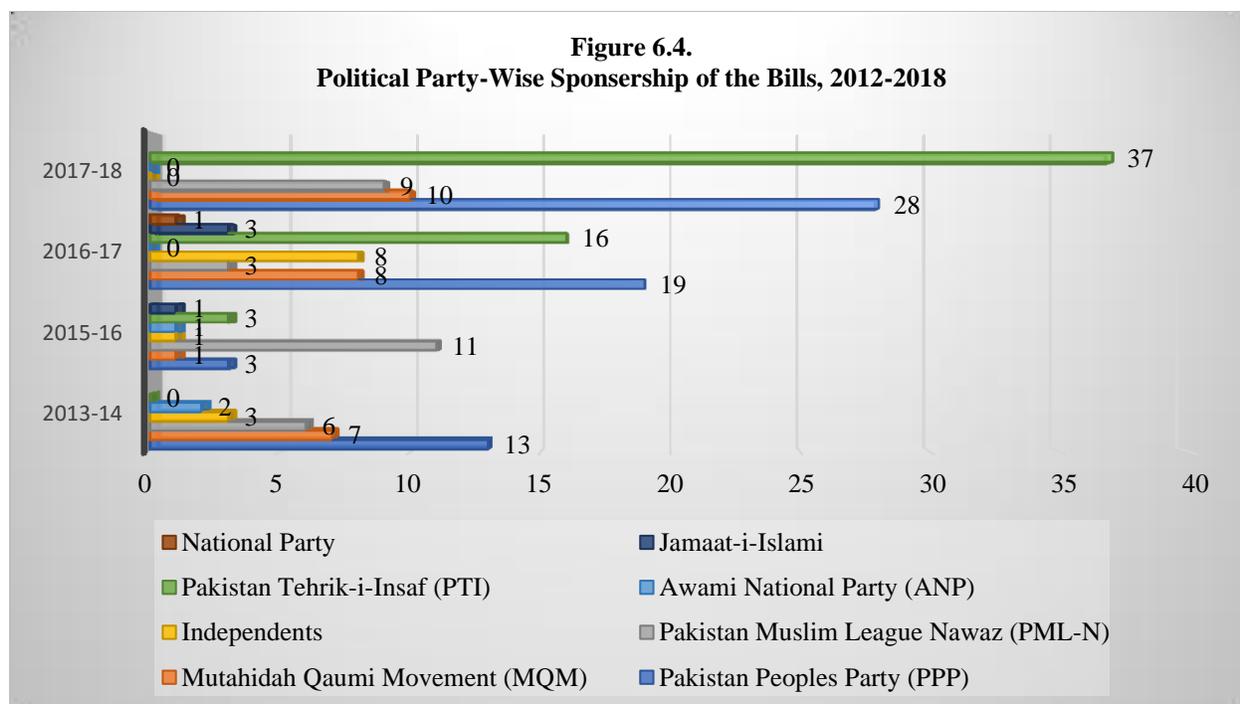
The male members of the Senate introduced more bills as compare to their female counterparts. It can be the case because of the smaller number of the female members in the Senate. However, the Figure 6.3. suggests that both the male and female members introduced more bills during the years between 2017 and 2018 and less in the years between 2013 and 2014.

Figure 6.3. Gender-wise Sponsorship of the Bills, 2012-2018



Source: The researcher has retrieved the data to compile these tables from the *Senate Hansard* and available Senate of Pakistan's annual performance reports for the years under study.

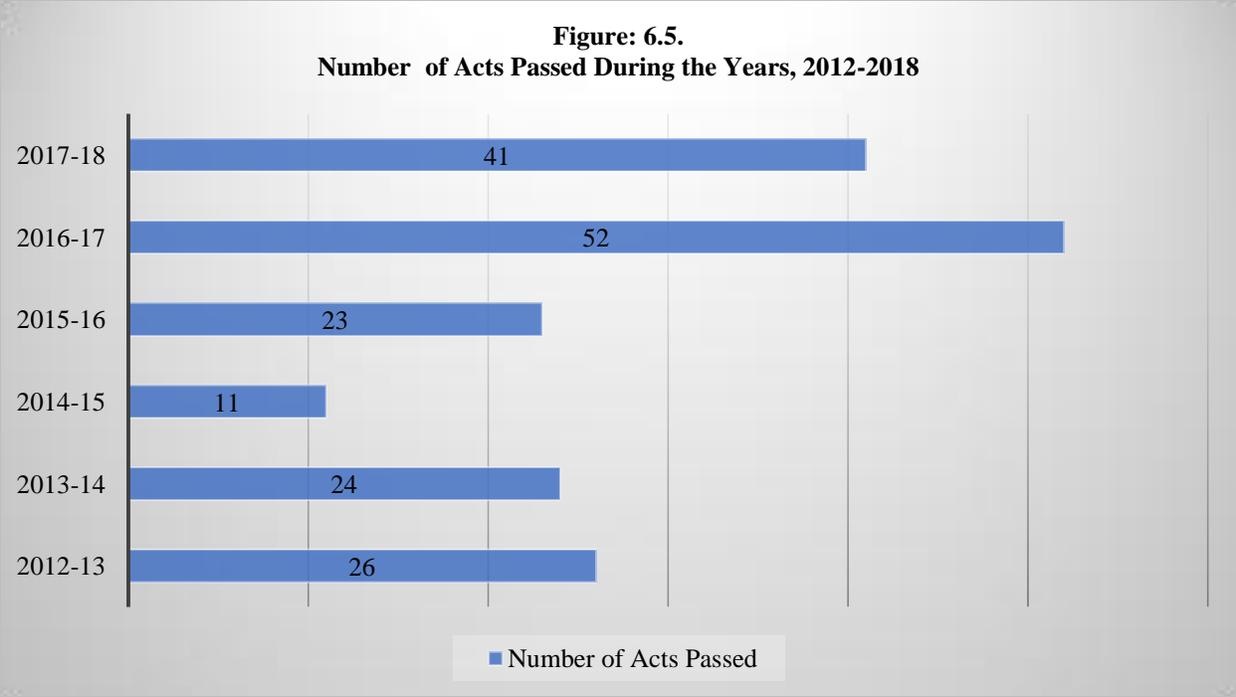
When it comes to the activeness of the senators in introducing the bills, the Figure 6. 4. suggests that the senators belonging to the PPP-P, PTI and ANP, all the three opposition parties, were comparatively more active to introduce the bills for either amending the existing laws or to introduce the new laws.



Source: The researcher has retrieved the data to compile these tables from the *Senate Hansard* (the Senate of Pakistan) of the years under study.

6.3 Acts of Parliament

Under the Constitution of Pakistan, 1973, a bill needs to be passed by the both chambers, the Senate and the National Assembly, to become a law or an act of the parliament. During the reporting period, out of total 316 introduced bills in the Senate, only 177 bills could become laws or the acts of the parliament. When it comes to activeness of the Senate in legislation, the Figure 6.5. indicates that the Senate has been comparatively more active as a legislative body during the parliamentary year (2016-2017) in which 52 bills eventually became the acts of the parliament whereas the parliament enacted only 11 acts during parliamentary year (2014-2015).



Source: The researcher has compiled this chart by retrieving data from the website of the Senate of Pakistan.

The thematic focus of the acts passed during the period under study included, revival of the parliamentary essence of the Constitution, promotion of the democratic culture in the country, strengthening of the Election Commission for free and fair election in the country, anti-terrorism and anti-extremism legislation, women empowerment and protection of minority rights including the rights of the less privileged segments of the society such as the transgender community, economic development, climate change and environmental sustainability and citizen’s right to access the information. The Table. 6.4. summarizes some of the themes of the acts passed during the years between 2012 and 2018.

Table: 6.4. Thematic Summary of Some Selected Acts of Parliament, 2012-2018

Counter-terrorism

The Drug Regulatory Authority of Pakistan Act, 2012
The National Counter Terrorism Authority Act, 2012
The Protection of Pakistan Act, 2014
The Pakistan Army (Amendment) Act, 2015
The Pakistan Army (Amendment) Act, 2015

Education

The Right to Free and Compulsory Education Act, 2012
The Intellectual Property Organization of Pakistan Act, 2012
The Islamabad Capital Territory Private Educational Institutions (Registration and Regulation) Act, 2013

Economic Development

The Special Economic Zones Act, 2012
The Anti-Money Laundering (Amendment) Act, 2015

Human Rights

The National Commission of Human Rights Act, 2012
The Investigation for Fair Trial Act, 2013
The Right of Access to Information Act, 2017
The Hindu Marriage Act, 2017
The Transgender Persons (Protection and Rights) Act, 2018

Electoral Reforms

The Delimitation of Constituencies (Amendment) Act, 2012
The Election Laws (Amendment) Act, 2013
The Elections Act, 2017
The National Civic Education Commission Act, 2018
The Islamabad Capital Territory Local Government Act, 2015

Women Empowerment

The National Commission on the Status of Women Bill, 2012
The Women in Distress and Detention Fund (Amendment) Act, 2011

Climate Change

The Pakistan Climate Change Act, 2017

Source: The researcher has retrieved the data to compile on the *Acts of the Parliament* from the *Senate Hansard* (the Senate of Pakistan) of the years under study.

6.4 Constitutional Amendments

The responsibility of protecting and amending the constitution is often given to second chambers, even though they are weak otherwise, in both the unitary and federal models.¹ Although the Senate of Pakistan is given limited constitutional role especially on money bills, it can veto on a bill seeking an amendment to the Constitution of Pakistan. One of its roles as a second federal chamber is to protect the Constitution of Pakistan. It enjoys coequal powers with the Assembly on amending the Constitution as it is embedded in the Constitution that a bill seeking an amendment to the Constitution needs to be passed by the both of the chambers with one-third vote of their membership separately. Under the Article 239 of the Constitution, a bill seeking an amendment to the Constitution can be originated in either of the house, the Assembly or the Senate, and needs to be passed by the two-third majority of the total membership of the both houses.² This section explores the contexts of the constitutional amendments made during the years between 2012 and 2018. It also looks at the connections between the parties' role and the voting behavior of the senators on bills seeking amendment to the Constitution. It analyses the role of informal party pressures and formal party discipline in twisting the arms of the senators to follow the party direction in voting on constitutional amendment bills.

The Constitution has been amended for twenty-five times since its introduction in 1973.³ In the period under study, the constitutional amendments made to the Constitution included the Constitutional Amendment Twenty-First was made to introduce the military courts for the trial of the scheduled terrorists in 2015;⁴ in 2017, the Constitutional Amendment Twenty-Third was

¹ Russel, *Reforming the House of Lords*, 180.

² *The Constitution of Pakistan, 1973*, Art. 239.

³ On the context, text and impacts of the constitutional amendments see, S.A. Rabbani, *Amendments in the Constitution of Pakistan, 1973* (Islamabad: National Assembly of Pakistan, 2013).

⁴ *Constitution, (Twenty-First Amendment) Act, 2015 (Gazette of Pakistan, 07 January 2015)*.

made to give extension to these courts for further two years;⁵ the Constitutional Amendment Twenty-Second was made to change the criteria for the appointment of the CEC and members of the Election Commission;⁶ the Constitutional Amendment Twenty-Fourth was made to redistribute the seats of the National Assembly and for the delimitation of the constituencies by the ECP;⁷ and, the Twenty-Fifth Constitutional Amendment was made on May 24, 2018 to merge the FATA into the KP.⁸ All of the bills seeking an amendment to the Constitution were introduced in the Assembly and transmitted to the Senate which passed them without suggesting any amendments into them. The Table. 6.5. provides details on sponsorship of the bills seeking amendment to the Constitution during the years between 2012 and 2018.

⁵ *Constitution, (Twenty-Third Amendment) Act, 2017 (Gazette of Pakistan, April 03, 2017).*

⁶ *Constitution, (Twenty-Second Amendment) Act, 2016 (Gazette of Pakistan, June 10, 2016).*

⁷ *Constitution, (Twenty-Fourth Amendment) Act, 2017 (Gazette of Pakistan, December 26, 2017).*

⁸ *Constitution, (Twenty-Fifth Amendment) Act, 2018 (Gazette of Pakistan, June 05, 2018).*

Table: 6.5. Sponsor of Bills Seeking Amendment to the Constitution, 2012-2018

Constitutional Amendment	Sponsorship of the Bill	Mover Name	Portfolio	Party in Opposition*
The Constitution (Twentieth Amendment) Act, 2012	Government (PPP-P)	Mr. Moula Baksh Chandio (Senator from Sindh)	Federal Minister for Law, Justice and Parliamentary Affairs	PML-N
The Constitution (Twentieth-First Amendment) Act, 2015	Government (PML-N)	Mr. Perviaz Rashid (Senator from Punjab)	Federal Minister for Law, Justice and Human Rights	PPP-P
The Constitution (Twentieth-Second Amendment) Act, 2016	Government (PML-N)	Mr. Zahid Hamid (MNA; NA-114 Saikot, Punjab)	Federal Minister for Law and Justice	PPP-P
The Constitution (Twentieth-Third Amendment) Act, 2017	Government (PML-N)	Mr. Zahid Hamid (MNA; NA-114 Saikot, Punjab)	Federal Minister for Law and Justice Affairs	PPP-P
The Constitution (Twentieth-Fourth Amendment) Act, 2017	Government (PML-N)	Mr. Zahid Hamid (MNA; NA-114 Saikot, Punjab)	Federal Minister for Law and Justice	PPP-P
The Constitution (Twentieth-Fifth Amendment) Act, 2018	Government (PML-N)	Mr. Bashir Virk (MNA; NA80 Gujranwala, Punjab)	Federal Minister for Law and Justice	PPP-P

Source: The researcher has drawn the table by consulting the *Hansard (Debates)* of the National Assembly for the years under study.

When it comes to the deliberation on these bills in the Senate, none of the bills was deliberated upon in details in the Senate. Except for the Twenty-Third Amendment which was debated for two days in the Senate, rest all the bills were considered and passed on the same day they were

* The period (2012-2018) is consisted of six (10th to 15th) parliamentary years. During the period under study falls under the two National Assemblies (13th and 14th). The PPP-P, being the majority party in the 13th National Assembly, was in government from March 17, 2008 to March 16, 2013 whereas PML-N, being a majority party in the 14th National Assembly was in government from June 1 2013 to May 31, 2018. During the tenure 13th National Assembly, the PML-N was in Opposition whereas during the tenure of 14th National Assembly the PPP-P was in Opposition. In the Senate, the PPP-P remained in majority and also occupied the Chairmanship of the Senate during entire period (March 2012 to March 9 2018) under study. Therefore, the partisan composition of the parliament during the said period has been as follows: during 10th parliamentary year (2012-13), the PPP-P has been in government and enjoys majority in the Senate; during parliamentary years (from 11th to 15th) the PLM-N has been in government and the PPP-P continues enjoying majority in the Senate.

moved to be considered as bills in the Senate. The Table. 6.6. provides details on the days of deliberation on these bills seeking amendment to the Constitution in the Senate of Pakistan. The informal party heads' control over the senators combined with the party discipline, embedded in the Constitution, shaped the voting behavior of senators on the constitutional amendment bills. The senators could not express their own will because of the party directions and hesitantly passed these bills without any detailed deliberation upon them.

Table: 6.6. Days of Deliberation in the Senate on Constitutional Amendments Bills, 2012-2018

Serial Number	Title of the Act	Originating House/Date introduced On	The Assembly Considered and Passed On	Transmitted to the Senate On	The Senate Considered and Passed On	The President Assented On	Published in Gazette On	Act Number
1.	The Constitution (Twentieth Amendment) Act, 2012	Feb.14, 2012 in National Assembly	Feb.14, 2012 (01 Day)	Feb.15, 2012	Feb.20, 2012 (01 Day)	Feb.28, 2012	Feb.29, 2012	V of 2012
2.	The Constitution (Twenty-First Amendment) Act, 2015	Jan.03, 2015 in National Assembly	Jan. 06, 2015 (01 Day)	Jan. 06, 2015	Jan. 06, 2015 (01 Day)	Jan. 07, 2015	Jan. 08, 2015	I of 2015
3.	The Constitution (Twenty-Second Amendment) Act, 2016	May.19, 2016 in National Assembly	May.19, 2016 (01 Day)	May.19, 2016	June.02, 2016 (01 Day)	June.08, 2016	June.10, 2016	XXV of 2016
4.	The Constitution (Twenty-Third Amendment) Act, 2017	March.10, 2017 in National Assembly	March.21, 2017 (01 Day)	March.21, 2017	March. 22 nd and 28 th , 2017 (02 Days)	March.30, 2017	April.03, 2017	XII of 2017
5.	The Constitution (Fourth Amendment) Act, 2017	Nov.02, 2017 in National Assembly	Nov.16, 2017 (01 Day)	Nov.16, 2017	Dec.19, 2017 (01 Day)	Dec.22, 2017	Dec.26, 2017	XXXVIII of 2017
6.	The Constitution (Fifth-Amendment) Act, 2018	May.24, 2018 in National Assembly	May.24, 2018 (01 Day)	May.24, 2018	May.25, 2018 (01 Day)	May.31, 2018	June.05, 2018	XXXVII of 2018

The researcher has drawn the table by consulting the *Hansard (Debates)* of the National Assembly for the years under study.

6.5 Politics of Legislation: The Role of Political Parties in Shaping Voting Behavior of the Senators

Three elements provide a framework with which one can understand and assess the actual legislative performance of senators: firstly, the legislative competence and constitutional powers with which they perform their legislative function; secondly, the legislative procedures with which the legislative process takes place; and, thirdly, the factors that influence their legislative or voting behavior. The first two elements, the powers and the procedures, are discussed in the previous chapters, it is enormously essential here to answer the question what were impeding factors that limited the constitutional role of the senators on key policy areas on which they can legislate on. The answer to above raised question, amongst others,¹ is that the political parties play a central role in influencing the voting behavior of the senators. This argument is explained further in the next section.

6.5.1 Party Interferences Mechanisms: Candidate Selection, Party Whips and Party Discipline

A political party is an instrument to attain the political aims in modern times. The symbiotic relationship between a professional politician and a political party resembles with a flexible machine necessary for maneuvering the political life of an individual politician or a group of politicians. The evolution of political parties is simultaneous with the emergence of parliamentary and electoral processes. The first appeared role of political parties was a kind

¹ The factors that can influence the legislative competence of the senators in Pakistan are: lack of professionalism, lack of facilities, lack of political will of the senators to exercise their powers, conflict of the interests of the senators that has made the Senate a club of wealthy and pre-dominance of the Assembly and the executive branch; and last but not that least, indirect selection method of the senators by the provincial assemblies combined with the informal exclusive powers to nominate a candidate by the party heads. These all have contributed to what the in words of Wirls, “a package to create a less democratic second house,” Daniel Wirls, *The Senate: From White Supremacy to Governmental Gridlock* (Virginia: University of Virginia Press, 2021).

of electoral committees collecting funds for elections and nominating candidates for elections. The parliamentary groups, sharing policy interests, started uniting themselves for common political interests within the legislative bodies and shared electoral committees, that naturally established the political parties. The authority to and choice of selecting candidates for various levels of elections gave political parties a unique appearance² and eventually in influencing the legislative behavior of the parliamentarians. Added to this unique role of candidate selection, the introduction of and adherence to a strict party discipline enhanced³ enormously the indirect power of party heads to control the legislative behavior the members of the parliament.

The sensitive recognition of the socio-cultural and historical differences is a factor that defines the organizational and ideological structures of party systems. The party system can historically be understood and structurally be categorized broadly into two types; the elitist or traditional parties and the mass parties. The mass parties established by the communists or socialists to secure the electoral support of the masses rather to rely on the men of wealth.⁴ Contrary to mass parties, the elitist parties are those prototype parties which enlist the individuals having known for their socio-economic background instead of recruiting a largest mass membership. The elitist parties do so to seek the membership of the men of wealth who could finance election campaigns and who could influence the voters through their socio-economic prestige. The structure of elitist parties is less formal and they do not have a rigid organizational structure. When it comes to the decision-making and

² Maurice Duverger, *Party Politics and Pressure Groups: A Comparative Introduction*, Robert Wagoner, trans. (London: Thomas Y. Crowell Company Inc., 1972), 3.

³ For more details on role of parties in shaping the inter-cameral relations in parliamentary democracies see, Roger Scully, "Dealing with Big Brother: Relations with First Chamber," *Journal of Legislative Studies* Vol 7, No. 1 (2001), 93-104.

⁴ The mass political parties are type of parties which were established by the leaders of the socialist, communist or fascist ideologies or the movement. Such parties usually could not hope getting membership of the financial support from the men of wealth. The Mass parties had to rely on the masses for both the electoral support and the financial support. Duverger, *Party Politics and Pressure Groups*, 9-16.

selection⁵ of candidates for the elections, the final authority to decide in such parties seems more centralized and rest usually with the central leadership.⁶

With regard to the organization and tendency of the parliamentarians belonging the elitist parties, the functions with which they perform their role in the parliament remains virtually in the control of the central leadership of the party. The party central leaders control the legislative behavior of their parliamentarians through party whips, the extension of and loyal to the party leadership, and through a strict party discipline preventing the members to express their will freely. The decision of party leadership is imposed on the members by forcing them to vote on all the important issues as per the unquestionable party directions. Such rigidity in voting and greater centralization of power is an important factor impinging greatly on the actual performance of the parliamentarians. With few exceptions, majority of the political parties functioning in Pakistan offer an example of elitist political parties. The continuity of the parliamentary regime type strictly depends on the direct periodic elections. The electoral history of Pakistan indicates that the voters have voted to traditionally social elite to send it to the corridors of the powers, the parliament. Such tendency to vote has, with few minor changes, resisted democratic system to flourish in the country.

⁵ Peter G. J. Pulzer, *Political Representation and Elections: Parties and Voting in Great Britain* (New York: Frederick A. Praeger Publisher, 1967), 64-67.

⁶ What American elitist political parties makes difference from that of the British elitist parties are broadly two factors: first is the procedures of nominating or selecting candidates for the elections; second a systematic and permanent party organization of the parties. In the former, it is not a central leadership but the public which selects the candidates for the regular elections through the system of primaries-a system in which the registered members of a political party designate their party's candidate for the regular elections. In the latter, the American political parties have developed a permanent system of party membership giving the members a direct role in party electoral and policy decisions. Such dual process has neither let dominate rather emerge a central party leader and their unquestionable authority in candidate selection and decision-making not it has let emerge mass party system since there already exists highly developed system of enlisting membership of a party. R. Michael Alvarez and Betsy Sinclair, "Electoral Institutions and Legislative Behavior: The Effects of Primary Processes," *Political Research Quarterly*, Vol 20, No. 10, (2011) 1-14.

The legislative behavior of the senators is controlled through three mechanisms. Firstly, the centralized and self-gained power of central leadership to nominate a candidate for the Senate election that has given central role to the party leadership who nominates only to those individuals who have agreed to surrender their will to the party leadership. The members returned propagate the will of the party leader in the parliamentary procedures. The elected members follow the party direction since their future reelection to the Senate depends on the award of the party tickets to be awarded by the party leadership. The party tickets are usually awarded to those who have paid a huge amount of money to party funds or to those who have direct loyalty to the leaders of the party. Apart from the constitutional requirements,⁷ conventionally, the only criterion to get a ticket for the Senate election is a sound socio-economic background of the candidates as well as submission to party leadership's decision in future course of actions. The indirect elections of the Senate do not make the senators directly responsible to their constituents, the Provincial Assemblies, or to the people of the province, the senators' dependence for their re-elections remain, in fact, to follow strictly the party leaders' directions. Such electoral procedure makes them, if they consider themselves that they are, responsible to their party leader rather to the public or their electoral college, the Provincial Assemblies. Such type of answerability not only impinges on their performance as the representatives of the provinces but it makes them dependent, in their decision making, on the party leadership.

Secondly, the senators are controlled through the party whips in the Senate. The strong influence of the party whips is not uncommon as they play a role of post-master between the senators and the party heads. The primary role a party whip plays is to ensure the presence of the senators on voting day and encourage them to vote in line with the party direction.

⁷ For constitutional requirements to become the member of the parliament see, *Constitution of Pakistan, 1973*, Arts. 62-63.

Thirdly, the senators are made bound to vote on party lines by the party discipline, embedded in the Constitution. The Article 63-A of the Constitution imposes a condition on a senator that he or she cannot vote against the party direction on money bills and bills seeking amendment to the Constitution.⁸ In the following lines, the role of the party in shaping the voting behavior of the senators on the bills seeking amendment to the Constitution is taken into consideration to reinforce the argument. The debate is narrowed down to constitutional amendment bills to elaborate the connection between the party discipline and its role in shaping the voting behavior of the senators.

6.5.2 Party Interferences Evidences: The Constitutional Amendments, 2012-2018

December 16, 2014, a dreadful day on which the carnage of the innocent students of Army Public School Peshawar united all the stakeholders, especially the political leadership, to adopt a National Action Plan for wiping the menace of terrorism out of the country. Mian Nawaz Sharif, the then Prime Minister, convened an all-party-conference in which the political leadership, with few exceptions, unanimously decided to amend the Constitution for implementation of the Plan. Besides the constitutional amendment, an amendment to the Pakistan Army Act was proposed to provide a constitutional framework for the trial of scheduled terrorists in the military courts with sunset clause of two years. The political parties' supreme leaders not only drafted the broader proposed amendment before its formal introduction in the parliament but also decided the fate, which was to pass it without any reluctance, by giving their verdict in its favour. The leadership of the parliamentary parties, in

⁸ Under the Article 63-A, member of the parliament shall lose its members of the parliament if he or she votes against or abstain from the party directions on matters a. the election of the Prime Minister or Chief Minister; b. vote confidence or vote of no-confidence; and, c. money bills and bills seeking constitutional amendments. For details see *Constitution of Pakistan, 1973*, Art. 63-A.

a joint declaration,⁹ commended this proposed legislation by declaring it ‘a bold decision at a decisive moment’.

The Twenty-First Constitutional Amendment, along with the Pakistan Army Act, amendment bill, was passed by both the National Assembly and the Senate in their separate sessions on January 6, 2015. The passed bill seeking for a Constitutional Amendment became an Act of Parliament on January 7, 2015. The Amendment added a new clause in the Article 175 of the Constitution of Pakistan, 1973 providing a constitutional cover to trial the terrorists in the military courts.

In the Twenty-First Constitutional Amendment, a self-contained sunset clause was incorporated describing the life, two years from its implementation day, of the Amendment and the military courts. This sunset clause would later on lead to another constitutional amendment, the Twenty-Third Constitutional Amendment, seeking extension to the military courts for another two years¹⁰ The two years life of the military courts established through earlier Twenty-First Constitutional Amendment passed in 2015 expired in January, 2017. For the continuation of the military courts, the Constitutional (Twenty-Third) Amendment, another Amendment to extend the life of the Courts for further two years was passed in March, 2017.¹¹

Although the Amendment was passed unanimously, the members of the Senate expressed their grievances and grave reservations over this controversial Amendment on which they were constitutionally bound to follow the party directions as a ‘bitter pill’ to be swallowed. What follows is evidence that explains that how the party heads shaped the voting

⁹ For a joint declaration and points of view of the participants see, Baqir Sajjad Syed, “Politicians Give In On Military Courts,” *Daily Dawn*, January, 3, 2015 (Islamabad).

¹⁰ *Constitution (Twenty-first Amendment) Act, 2015 (The Gazette of Pakistan, January 8, 2015).*

¹¹ *Constitution, (Twenty-third Amendment) Act, 2017 (The Gazette of Pakistan, April 3, 2017).*

behavior of the senators, who were not individually in the favour to pass that legislation which they had considered against their political and moral will.

Mr. Raza Rabbani, a PPP-P stalwart and member of the Senate, grieved on the passage of the Amendment by expressing that he was ‘ashamed of voting in favour of this bill. He expressed his regrets that, although his conscious did not allow him to do so but he had done so because of party’s directions.’¹² Senator Aitzaz Ahsan of PPP-P expressed difficulty to speak on the Amendment because his party members were given a “difficult choice they have had to make,” he further added that he stood in the Senate to vote in the favour of the Amendment since his partymen were made bound to vote in the support of its passage.¹³ Similarly, Senator Tahir Hussain Mashhadi of MQM-Pakistan expressed compulsion involved in voting in the favour the Amendment as he had taken ‘a bitter pill’ of passing this Amendment for serving so called the ‘national interests.’¹⁴ Senator Hasil Khan Bizenjo of National Party declared that the support to pass the Amendment was neither a step to be accepted easily nor the one to be happy with but a sip of poison consumed compulsively to serve the national cause.¹⁵

The military courts established through the Constitution (Twenty-first) Amendment ceased to exist automatically as the Amendment had a sunset clause defining the time period of two years. The Constitution (Twenty-third) Amendment was passed in 2017 to give further extension to military courts for another two years. As the senators had passed the earlier Amendment for the said purpose against their conscious, they were forced to repeat the same again after two years. The senators expressed their helplessness before the pre-decided

¹² *Senate Debates*, Vol X, No. IX (January 08, 2015), 21.

¹³ *Senate Debates*, Vol X, No. IX (January 08, 2015), 33-36.

¹⁴ *Senate Debates*, Vol X, No. IX (January 08, 2015), 25.

¹⁵ *Senate Debates*, Vol X, No. IX (January 08, 2015), 27-29.

agreement between the parliamentary leaders of their respective parties on the draft of the Amendment.

Senator Atta ur-Rehman urged that earlier as our party had opposed the passage of Twenty-First Amendment. However, the members of the other parties seemed helpless before the directions of their party leaders.¹⁶ Senator Mir Kabeer Shahi contented that the members of our party tasted an unpleasant and bitter sip of water to pass the Amendment as he was directed by the party leadership to do so. He added further that majority of senators were forcefully made to vote in its favour.¹⁷ Senator Sherry Rehman said that we had passed this Amendment with heavy heart. She declared the day of its passage as a tragic day since the members passed it by compulsion as they were left with no other option.¹⁸ Senator Saeedul Hassan declared the passage of this Amendment as an act of hypocrisy at parliamentarians' end who, on the one side were forced to pass it and on the other side were making speeches against it by pretending that their hands had been tied up to do so by the party compulsions.¹⁹ Senator Taj Haider commented that we had passed the same bill with great reservations earlier in 2015 and now again we were forced to pass it which we would do with a great grief.²⁰ Senator Ilyas Bilour opined that we were made bound to pass it by compulsion not by choice.²¹ For Senator Tahir Mashhadi, the passage of such legislation was just like to swallow a bitter pill which a democrat mind could never support willingly.²²

Senator Farhatullah Babar, although followed the party directions as he was constitutionally bound to do so, raised voice against the concentration of power with party heads who controls the strings of their members to serve their own or someone else's

¹⁶ *Senate Debates*, Vol III, No. XIII (April 03, 2017), 6.

¹⁷ *Senate Debates*, Vol III, No. XIII (April 03, 2017), 22.

¹⁸ *Senate Debates*, Vol III, No. XIII (April 03, 2017), 25-28.

¹⁹ *Senate Debates*, Vol III, No. XIII (April 03, 2017), 28-29.

²⁰ *Senate Debates*, Vol III, No. XIII (April 03, 2017), 37.

²¹ *Senate Debates*, Vol III, No. XIII (April 03, 2017), 39.

²² *Senate Debates*, Vol III, No. XIII (April 03, 2017), 45-46.

interests by bounding the members to support a legislative proposal which had undermined not only the supremacy of the parliament but also discouraged the members to exercise their individual will.²³ He opined that the party discipline had given authority to party heads to control the voting behavior of the members. He quoted the example that how the pressure or the interest groups usually got legislation passed serving their vested interests by just lobbying with the party heads who made compromises at the cost of the independence of the members and the supremacy of the parliament. He questioned the unquestionable authority of party heads who used to bulldoze the individual and political conscious of the members. He rightly highlighted that how the entire parliament and its legislative process was being hijacked and manipulated by the party heads and how the members seemed helpless before the dictates of their party heads. He observed that ‘this is a very serious matter giving powers to amend the Constitution to ten- or twelve-party heads; I think it is a dangerous concentration of powers in the party head and the framers of Eighteenth Amendment should, and this parliament also should give it a serious thought.’²⁴

Senator Sassi Pliju, claimed that majority of the members favoured this legislation unwillingly as they were helpless before the dictates of the party heads.²⁵ Senator Sitara Ayaz argued that she was bound to vote in the favour of this Amendment. She claimed that although it was not easy for us to do so but we had to do since it had already been agreed upon in the meetings of the party heads to support it. She further argued that she was voting in its favour, although it was against her conscious and she did not think it right to do so.²⁶ Senator Sehar Kamran admitted that they, the members, were made bound by the party heads and were left with no option but to vote in the favour of that legislation.²⁷ Senator Nawabzada

²³ *Senate Debates*, Vol III, No. XIII (April 03, 2017), 51-53.

²⁴ *Senate Debates*, Vol III, No. XIII (March 22, 2017), 53.

²⁵ *Senate Debates*, Vol III, No. XIV (March 28, 2017), 34.

²⁶ *Senate Debates*, Vol III, No. XIV (March 28, 2017), 6.

²⁷ *Senate Debates*, Vol III, No. XIV (April 03, 2017), 7.

Saifullah said that ‘I can assure you that majority of members present would not have been present if not constitutionally made bound to do so.’²⁸ Senator Mohsin Aziz argued that as the powerhouses (the party heads) had already decided to pass it, let it pass without commenting on its (de)merits and just proceed to your homes without making a complaint of swelling a bitter pill.²⁹ Senator Noman Wazir, discussed the helplessness of the members by saying that we were going to contribute to nothing but only to pass a draft which had already been decided by the parliamentary leaders.³⁰ He questioned the independent position of the members and the sovereignty of the parliament by adding that ‘you would change the bill, can you change, can you make changes at this moment, we cannot. So, let us be very frank, we are just going through an exercise, which has already been decided by someone else.’³¹ The evidences mentioned in above lines confirms that it was party head who shaped the senators’ voting behavior and forced them to vote in the favour of a legislation which they did so not because of their personal will but because of the party discipline imposed on them.

This chapter has provided a quantitative and qualitative analysis of the legislative policy work of the Senate during the years between 2012 and 2018. When it comes to the performance of the senators in attending the legislative business of the Senate and actively participating in it, it suggests that the senators from the smaller provinces have been more active as compare to those of the larger provinces. Similarly, the female members have been more active as compare to their male counterparts. The members of the smaller parties or regional parties introduced more bills as compare the members of the larger or national parties. The Senate have been more active as a territorial chamber and second legislative chamber during the years between 2015 and 2018 as compare to in the years between 2012 and 2015. Another trend regarding the legislative activity of senators is noticed that the

²⁸ *Senate Debates*, Vol III, No. XIV (April 03, 2017), 10.

²⁹ *Senate Debates*, Vol III, No. XIV (April 03, 2017), 12.

³⁰ *Senate Debates*, Vol III, No. XIV (April 03, 2017), 12.

³¹ *Senate Debates*, Vol III, No. XIV (April 03, 2017), 13.

incongruence in the political composition also proved as one of the encouraging factors to the legislative activity of the Senate as the senators of PPP-P proposed more amendments to bills between the years 2013 and 2018 when the PML-N has been in majority in the Assembly or in the government.

The chapter has notices two trends regarding the voting behavior of the senators. Firstly, they did not follow the party direction where they had a choice serve their own individual interests through secret vote. Secondly, they followed strictly the party direction where they could not deviate from it since the voting took place through open ballot. The example of the former is election of the Senate chairman whereas the example of the latter is voting on constitutional amendment bills. The senators defected parties in vote of no-confidence against the Chairman Sadiq Sanjarani in 2019 as it took place through secret ballot whereas they followed the party directions in voting on constitutional amendments (Twenty-first and Twenty-third) despite having their severe reservations on them.

Conclusion

In explaining the Senate of Pakistan's constitutional role as a chamber of the provinces, the study has located its institutional importance in ethno-regionally diverse federation of Pakistan. It has also covered a wider range of related issues that identify the institutional position of the Senate that is little-understood but plays a significant political role in the contemporary Pakistani politics. By exploring the institutional history of the Senate, it provided the socio-political contexts that convinced the Constitution-makers to establish it as a chamber of provinces with its constitutional role to advance the concerns of the provinces at federal level. The subsequent chapters analyzed the institutional strength of the Senate by focusing on its variables; the constitutional powers and its compositional distinctiveness. It also provided a comparative analysis of the institutional role and strength of the Senate and its legislative counterparts beyond the borders. The final chapters appraised the extent of the exercise of constitutional powers by the senators to advance the concerns of the provinces. It also reflected on policy influence of the Senate, legislative culture or trends and factors that shaped the legislative behavior of the senators or that impeded them to perform their constitutional role effectively during the period under study. This final section pulls the arguments, advanced in the breadth of study, together to draw conclusions.

The emergence of bicameral legislatures is not uncommon in the modern federations. The primary institutional role of second federal chambers is to represent the interests of the provinces at federal level by participating in the legislative policy work in the federal parliament and by overseeing the non-legislative policy works of the federal government. The members of the federal second chambers influence the policies of the federal government in the favour of their constituents, the provinces by raising questions and debating the legislative

bills. The political scientists usually contest the need of having a second chamber as it is considered, for some, a mischievous or conflicting body whereas it is termed as redundant by the others. It is admitted that the role of second chambers vary from one country to the other. Having accepted the opinions on the efficacy of the second chamber, the fact remains that it not only diffuses the issues of political representation in divided political cultures but also it increases the chances of democratic governance in ethno-regionally divided societies. It occupies an added significance in a federation where huge territorial-political cleavages exist between the smaller and larger provinces.

In 1947, the federation of Pakistan emerged as ethno-regionally fragmented society. The territorial-political differences between the larger provinces and the smaller provinces resulted in an issue of political disparity or representational differences between larger provinces and less populous provinces in the federal parliament. The policy-makers of the time regulated such political disparities through unnatural constitutional arrangements (the One Unit Scheme of 1955). Such artificial ways of managing the political disparities, among others, led to the dismemberment of the Pakistani federation in 1971. In 1973, the Constitution-makers realized the gravity of such ethno-territorial cleavages between the larger and smaller provinces. The Senate of Pakistan was created as institutional device to make the all provinces feel constitutionally equal before the federation of Pakistan. They provided equal regional representation to all the provinces in the Senate irrespective of their demographic size. Such equal regional representation in the Senate was justified as a political concession to smaller provinces as it had diffused the political majority of the one larger province, the Punjab, in the federal parliament of Pakistan.

A second chamber needs to be institutionally strong to perform its role of representing the concerns of its constituents, the provinces. The institutional strength of a second chamber can be assessed by looking at two classic variables; the degree of its equality in its

constitutional powers with and extent of its compositional distinctiveness from that of the first chamber. Looking at the first variable, the institutional strength of the Senate of Pakistan as a territorial chamber is found lesser to that of the first chamber, the National Assembly. It is not sufficiently clothed with the constitutional powers as it does not enjoy the power of purse that is the sole discretion of the Assembly. Such imbalance of constitutional role decreases its institutional role as a territorial chamber within the federal parliament where the Assembly combined with the executive branch dominates in the legislative and non-legislative policy works of the federal parliament. The Eighteenth Constitutional Amendment of 2010 has, to some extent, expanded the oversight role of the Senate as a federal second chamber, the Senate is still deprived of the fiscal powers, that is necessary not only to hold the federal government accountable on its expenditures but also to influence federal fiscal policy in the favour of its constituents, the provinces.

The second variable of compositional distinctiveness between the Senate and the Assembly is found visible in two ways: firstly, the Assembly represents the principle of the population where the seats are allocated on the basis of the population of the provinces whereas the provinces are equally represented in the Senate without their population differences; secondly, difference in election methods or electoral designs to elect the members of the two chambers. The members of the Assembly are elected directly on the principle of one person one vote whereas the senators are elected indirectly by the Provincial Assemblies through proportional representation system. Such indirect orientation of the Senate has greater implications for its constitutional capacity and actual performance as the representative of the provinces. The indirect elections to the Senate have two impacts on its constitutional mandate and institutional design: firstly, it makes the senators more dependent on the party leaders who have informally attained an ultimate power to nominate the candidates for Senate elections; secondly, it makes the Senate relatively a less powerful

chamber as compare to the Assembly which has assumed the upper hand in parliamentary procedures of the federal parliament. The indirect election method combined with the way the senators are nominated by the parties has developed a perception about the Senate as a less democratically legitimate chamber amongst the common people and the policy-makers.

Given the fact that the institutional strength of the Senate is lesser as compare to that of the Assembly, the senators utilised the parliamentary tools to influence the legislative and non-legislative policy work of the federal government during the years between 2012 and 2018. They held accountable the federal government by asking questions from the ministers concerned, debating non-legislative policies, and deliberating upon the legislative business. Based on the material documented in its breadth, this study has noticed following trends in the parliamentary business of the Senate.

First, the senators asked more questions from the ministers concerned and deliberated in detailed the policies of the federal government during the years between 2013 and 2018 as compare to the years between 2008 and 2013. It was so because of the incongruence in the composition of the two chambers of the federal parliament. During the years 2008 and 2013, one single party, the PPP-P, was in majority in the both chambers. The PPP-P has been both a majority party in the Senate and government party in the Assembly. In the years between 2013 and 2018, the federal parliament manifested an incongruence in its political composition as the PPP-P continued as a majority party in the Senate but the PML-N has been a government party or a majority party in the Assembly.

Second, the Senate as a counterpart of the Assembly was more active during the years between 2015 to 2018 as compare to the years between 2012 to 2015. It was so because of the change in the leadership of the Senate. Syed Nayyer Bokhari held the office of the Chairman of the Senate from 2012 to 2015 followed by Mian Raza Rabbani who has been

Chairman of the Senate from 2015 to 2018. During the tenure of the earlier, except for routine legislative work, there seem less innovation or proactiveness in the legislative activity of the Senate whereas during the tenure of the latter, there was much to be mentioned in the Senate's legislative activity. During the tenure of Mian Raza Rabbani, the *Rules of the Procedures* in the Senate were amended to include the senators into the PAC. Many new functional and special committees were formed to address the problems of the smaller provinces and less privileged segments of society. The Committee of the Whole was introduced to make recommendations on the national issues. The Chairman Rabbani gave several rulings on the matter related to the privileges of the Senate that made it obligatory for ministers to answer the questions raised by the senators. Amongst others steps, he developed a trend of an inter-institutional dialogues on matters of national importance. So, such relativity in the activity of the Senate during the tenures of the two chairmen suggests that, in addition to the capacity of the Senate, the individual senators do matter in its actual performance. It also suggests that it is not only the matter of policy powers of the Senate but also who is exercising this power and to what extent. It is to say that the performance of the senators does not only depends in constitutional powers they do have but how much they make use of it or how much do they show political will to exercise those powers.

Third, the senators from the smaller provinces have been more active in asking the questions and debating the federal government's policies as compare to that of the larger province, the Punjab. This trend is linked to the dominance of the larger provinces, the Punjab, in the federal power politics. Though all the provinces, smaller or larger, are constitutionally equal before the Constitution as it provides equal regional representation to all in the Senate, such equal regional representation has thinly diffused the dominance of the Punjab in the parliamentary procedures of the federal parliament at federal level. A party that wins more seats of the Assembly in the Punjab would dominate in the parliamentary

procedures of the federal parliament as the Punjab has a clear majority in the Assembly over all the provinces together. Such dominance of the one province in the parliamentary procedures encouraged the senators from the smaller provinces to challenge the federal government's policies.

Fourth, the senators from the smaller parties or regional parties have been more active as compare to that of the larger or national parties. The trend of smaller parties more activeness as compare to larger parties was because of the support base and the policy scope of the regional parties. The regional parties operate in the smaller provinces (such as Balochistan, Sindh and KP) and highlighted the regional issues in the Senate. The senators belonging to smaller provinces or who were actually the senators from regional parties, perceived the one province's dominance as one of the causes of their respective provinces' underdevelopment. Such perception combined with apolitical approach to of the federal government to resolve the legitimate economic and political grievances of the smaller provinces prompted senators of the smaller parties to raise more voices in the Senate, the chamber of the provinces as compare to those of the larger province, the Punjab.

The factors that dominated or shaped the legislative behavior of the senators during the period under study included predominance of the Assembly or the executive branch in the parliamentary procedures, lack of perceived democratic legitimacy of the senators, lack of senators' political will to exercise their powers, lack of sufficient and professional staff, and above all, the interferences of the political parties in the parliamentary proceedings. The parties' role in shaping the legislative or voting behavior of the senators was visible as there has been rare evidence of senators' deviation from or voting against the party lines on the legislative bills introduced in the Senate during the period under study. The parties influence the legislative behavior of the senators through two channels: firstly, through the party whips who acted as post-masters between the party leader and the senators of that party; and,

secondly, through the party discipline that made bound the senators to follow the party directions on bills seeking a constitutional amendment and bills seeking the approval of federal budget. Arguably, amongst others, it has been parties that dominated the legislative procedures of the Senate and played substantial role in shaping the legislative behavior of the senators during the period under study.

The institutional rationale for creating the Senate of Pakistan as conceived by the Constitution-makers was to create a territorial chamber that would safeguards the economic and political interests of the provinces at federal level. For that matter, they arranged its institutional design that gave equal regional representation to all provinces irrespective of their demographic differences. Regardless to say, the principle of constitutional equality of provinces alone does not guarantee the safeguards of provinces interests until the Senate was not clothed with the sufficient institutional strength or constitutional powers. They deprived the Senate from financial powers that remained the sole jurisdiction of the Assembly. The imbalance between the powers of the two chambers of the federal government combined with the majoritarian parliamentarianism has made the Senate a subservient chamber of the Assembly.

Similarly, the indirect election of the senators by the Provincial Assemblies has not only made them dependent on the political parties for their reelection but also developed a perception amongst the public and the policy makers who consider the Senate as a less democratically legitimate chamber as compare to the Assembly. Amongst others, the central role of the formal party discipline shaped the legislative behavior of the senators and, to some extent, impeded them to perform their constitutional role of advancing the concerns of the provinces effectively. Despite all these hurdles, the senators vie to hold the government accountable and debate its policies has been appreciable during the years between 2012 and 2018.

Select Bibliography

I. Primary Sources

National/Constituent Assembly Debates, Official Reports

- Constituent Assembly of Pakistan Debates* (March 7-12, 1949).
Constituent Assembly of Pakistan Debates (September 28, 1950).
Constituent Assembly of Pakistan Debates (October 07, 1953).
Constituent Assembly of Pakistan Debates (September 30, 1955).
Constituent Assembly of Pakistan Debates (January 09, 1956).
Constituent Assembly of Pakistan Debates (February 29, 1956).
National Assembly of Pakistan Debates (June 08-15, 1962).
National Assembly of Pakistan (Constitution Making) Debates (December 31, 1972).
National Assembly of Pakistan (Constitution Making) Debates (February 17, 1973).
National Assembly of Pakistan (Constitution Making) Debates (February 19, 1973).
National Assembly of Pakistan (Constitution Making) Debates (April 10, 1973).

Senate of Pakistan Debates, Official Reports

- Senate of Pakistan Debates. Official Reports* (February 20, 2012).
Senate of Pakistan Debates. Official Reports (January 06, 2018).
Senate of Pakistan Debates. Official Reports (June 02, 2016).
Senate of Pakistan Debates. Official Reports (March 27 and 28, 2017).
Senate of Pakistan Debates. Official Reports (December 19, 2017).
Senate of Pakistan Debates. Official Reports (May 25, 2018).
Senate of Pakistan Debates. Official Reports (March 2012-March 2018)

Official Publications of the Government, the Senate and the Assembly

- First Senate of Pakistan: 1973-77* (Islamabad: Senate of Pakistan, 1980).
One Unit-Historical, Constitutional and Administrative Perspective (Lahore: Government of the Punjab Press, 1955).
- Rabbani, S. A. *Amendments in the Constitution of the Islamic Republic of Pakistan, 1973* (Islamabad: National Assembly of Pakistan, 2013).
- Rules of Procedure and Conduct of Business in the National Assembly, 2007* (Islamabad: The National Assembly of Pakistan, 2007).

The Rules of Procedure and Conduct of Business in the Senate, 2012 (Islamabad: The Senate of Pakistan, 2012).

Founding Day: Proceedings and Record of First Sitting of the Senate of Pakistan, August 6, 1973 (Islamabad: The Senate of Pakistan, 2016).

Members Directory, 2015-2018 (Islamabad: The Senate of Pakistan, n.d).

Reports of the Committee of the Whole (Islamabad: The Senate of Pakistan, 15 September 2015; 07 August 2015; 20 January 2016; 26 September 2016 and 22 August 2017).

Rulings of the Chairs, Vol III and IV (Islamabad: The Senate of Pakistan, n.d).

The Parliament (Joint-Sitting) Rules, 1973 (Islamabad: The Senate of Pakistan, 2012).

The Rules of Procedure and Conduct of Business in the Senate, 1973 (Islamabad: The Senate of Pakistan, 1973).

Who's Who in the Senate of Pakistan (Islamabad: The Senate of Pakistan, n.d).

Constitutional Documents

Draft Constitution of the Islamic Republic of Pakistan 1954 (Karachi: Government of Pakistan Press, 1954).

Constitution of the Islamic Republic of Pakistan (as passed by the Second Constituent Assembly on February 29, 1956) (Karachi: Government of Pakistan Press, 1956).

Constitution of the Republic of Pakistan 1962 (Karachi: Government of Pakistan Press, 1962).

The Interim Constitution of the Islamic Republic of Pakistan as adopted on April 17, 1972 (Islamabad: Government of Pakistan Press, 1972).

The Constitution of the Islamic Republic of Pakistan as passed by the National Assembly of Pakistan on April 10, 1973 (Islamabad: National Assembly of Pakistan, 1973).

The Constitution of Pakistan as modified up to May 31, 2018 (Islamabad: National Assembly of Pakistan, 2018).

Constitutional Documents (Pakistan) Vol II (Karachi: Government of Pakistan Press, 1964).

Basic Constitutional Documents Vol II (Islamabad: National Assembly of Pakistan, n.d).

Acts

The Establishment of West Pakistan Act, 1955 (*Gazette of Pakistan*, October 03, 1955).

Constitution, (Eighteenth Amendment) Act, 2010 (*Gazette of Pakistan*, April 19, 2010).

Constitution, (Twenty-First Amendment) Act, 2015 (*Gazette of Pakistan*, 07 January, 2015).
Constitution, (Twenty-Second Amendment) Act, 2016 (*Gazette of Pakistan*, June 10, 2016).

Constitution, (Twenty-Third Amendment) Act, 2017 (*Gazette of Pakistan*, April 03, 2017).

Constitution, (Twenty-Fourth Amendment) Act, 2017 (*Gazette of Pakistan*, December 26, 2017).

The Election Act, 2017 (*Gazette of Pakistan*, October 02, 2017).

Constitution, (Twenty-Fifth Amendment) Act, 2018 (*Gazette of Pakistan*, June 05, 2018).

Notifications and Orders

Provisional Constitution Order (*Gazette of Pakistan*, March 24, 1981).

Revival of the Constitution of 1973 Order, 1985' (*Gazette of Pakistan*, March 02, 1985).

President's Order No. 1 of 1970 (*Gazette of Pakistan*. March 30, 1970).

Legal Framework Order, President's Order No. 2 of 1970 (*Gazette of Pakistan*. March 30, 1970).

Legal Framework Order, 2002 (*Gazette of Pakistan*. August 2002).

Reports

The Interim Report of the Basic Principles Committee (Karachi: Government of Pakistan Press, 1950).

The Final Report of the Basic Principles Committee (Karachi: Government of Pakistan Press, 1952).

The Report of the Basic Principles Committee (as adopted by the Constituent Assembly, 1954). (Karachi: Government of Pakistan Press, 1954).

Report of the Constitution Commission, 1961 (Karachi: Government of Pakistan Press, 1958).

Report of the Constitution Committee, dated December 30, 1972. (Islamabad: National Assembly of Pakistan, 1975).

Report of Council for Administration of West Pakistan, 1951-55 (Lahore: Government of the Punjab Press).

Agreements and Accords

The Tripartite (PPP-P-NAP-JUI) Accord on the Constitution, dated March 6, 1972 (Islamabad: National Assembly of Pakistan, 1975).

Text of Amendments to Constitution Bill, proposed by UDF (Karachi: *Daily Dawn*, dated March 25, 1973).

Text of UDF's Rejoinder to Government (Karachi: *Daily Dawn*, dated April 10-11, 1973).

Text of Aide Memoire by Mr. Bhutto, President of Pakistan dated April 04, 1973. (Islamabad: The National Assembly of Pakistan).

Text of Accord on Constitution, dated October 20, 1972 (Islamabad: National Assembly of Pakistan, 1975).

Works of the Senators

Ahmad, Khurshid. *A'in: Akhtiyarat ka Tawazun aur Tarz-i-Hukamrani* [Constitution: Balance of Power and Governance] (Islamabad: Islamabad Policy Research Institute, 2021).

_____. *A'in-i-Pakistan: Inharafat aur Bahali ki Jadojehd* [The Constitution of Pakistan: Deviations and Struggle for Restoration] (Islamabad: Islamabad Policy Research Institute, 2021).

_____. *Jamhuriyat, Parliament aur Islam* [Democracy, Parliament and Islam] (Islamabad: Islamabad Policy Research Institute, 1994).

_____. *Pakistan ka Jamhuri Safar: Parliament ka Kirdar aur Rawayaat* [Democratic Journey of Pakistan: The Role and Traditions of Parliament] (Islamabad: Islamabad Policy Research Institute, 2021).

_____. *Pakistani Siyasat aur A'een* [Politics of Pakistan and the Constitution] (Islamabad: Islamabad Policy Research Institute, 1994).

_____. *Proportional Representation and the Revival of Democratic Process in Pakistan* (Islamabad: Islamabad Policy Research Institute, 1983).

Bhindar, Muhammad Anwar. *Alphabetical Catalogue of the Laws of Pakistan 1836 to 2014* (Islamabad: The Senate of Pakistan, n.d).

Jabbar, Javed. *A General in Particular: Interactions with Pervez Musharraf* (Islamabad: Paramount Books, 2023).

_____. *A President, A Prime Minister and A Political Party: Interactions with Farooq Laghari, Meraj Khalid and Milat Party* (Islamabad: Paramount Books, 2022).

_____. *But Prime Minister: Interactions with Benazir Bhutto* (Islamabad: Paramount Books, 2021).

Memon, Nisar A. *Insight into the Senate of Pakistan* (Islamabad: Rohani Art Press, 2017).

Rabbani, Mian Raza. *A Biography of Pakistani Federalism: Unity in Diversity* (Islamabad: Leo Books, 2016).

_____. *Entangled Thread: A Ruling Never Given* (Read for Life, 2019).

_____. *LFO: A Fraud on the Constitution* (Karachi: Q.A. Publishers, 2003).

Zafar, S.M. *Senator S.M. Zafar Ki Kahani Un Ki Apni Zubani* [The Story of Senator S.M. Zafar as Told by Himself] (Lahore: Sagar Publishers, 2013).

Interviews

Members of the Senate of Pakistan

Bokhari, Senator Syed Nayyer Hussain. Interview by researcher. 27 April, 2021. F-8/2, Islamabad.

Babar, Senator Farhatullah. Interview by researcher. 02 June, 2021. Masawat Building, Zero Point, Islamabad.

Haq, Senator Raja Zafar ul. Interview by researcher. 20 June, 2021. G-7/4, Islamabad.

Jamaldini, Senator Jahanzeb. Interview by researcher. 17 April, 2022. Parliament Lodges, Islamabad.

Haider, Senator Taj. Interview by researcher. 05 May, 2021. Parliament Lodges, Islamabad.

Abbasi, Senator Sadia. Interview by researcher. 17 May, 2021. Parliament House, Islamabad.

Swati, Senator Azam. Interview by researcher. 22 May, 2021. Ministry of Parliamentary Affairs, Pakistan Secretariate, Islamabad.

Malik, Senator Musadik. Interview by researcher. 25 May, 2021. Parliament Lodges, Islamabad.

Rabbani, Senator Mian Raza. Interview by researcher. 31 May, 2021. Parliament House, Islamabad.

Jabbar, Senator Javed. Interview by researcher. 22 April, 2023. Ramada Hotel, Islamabad.

Syed, Senator Mushahid Hussain. Interview by researcher. 08 June, 2021. Parliament House, Islamabad.

Senate Staff

Pervaiz, Amjad, Secretary Senate of Pakistan (Sep. 2013 to June 2019). Interview by researcher. 12 May, 2021. D-12/4, Islamabad.

Mustafa, Iffat, Director Research Directorate, the Senate of Pakistan. Interview by researcher. 17 May, 2021. Senate of Pakistan, Parliament House, Islamabad.

Rehman, Haris, Deputy Secretary Legislation, the Senate of Pakistan. Interview by researcher. 17 May, 2021. Senate of Pakistan, Parliament House, Islamabad.

Khan, Asadullah, Deputy Director Media Directorate, the Senate of Pakistan. Interview by researcher. 12 August 2021. Senate of Pakistan, Parliament House, Islamabad.

Babar, Iftikhar Ullah, Secretary Senate of Pakistan (Jan. 01 2012 to Aug. 08 2013). Interview by researcher. 13 May, 2021. Sector G-13/2, Islamabad.

Members of the National Assembly

Abbasi, Shahid Khaqan, former Prime Minister of Pakistan. Interview by researcher. 02 May, 2021. Sector F-7/2, Islamabad.

Ashraf, Raja Pervaiz, former Prime Minister of Pakistan and Speaker National Assembly. Interview by researcher. 12 June, 2021. Sector F-8, Islamabad.

Imam, Syed Fakhar, former Federal Minister and Speaker National Assembly. Interview by researcher. 15 June, 2023. Sector E-7, Islamabad.

Khan, Noor Aalam, former MNA and Chairmen Public Accounts Committee. Interview by researcher. 07 April, 2022. Parliament Lodges, Islamabad.

Qasuri, Ahmad Raza, former member of the National Assembly (MNA). Interview by researcher. 03 June, 2023. Sector E-7, Islamabad.

National Assembly Staff

Chughtai, Huma, Director Research and Library National Assembly (1988-2007). Interview by researcher. 12 March, 2022. Bahria Town, Islamabad.

Siddiqi, Naim Uddin, Librarian National Assembly from 1964 to 2001. Interview by researcher. 14 June, 2021. National Assembly Library, Parliament House, Islamabad.

Pakistan Institute for Parliamentary Services Staff

Khan, Zafarullah (Executive Director, Pakistan Institute for Parliamentary Services, May. 2016 to April 2019). Interview by researcher. 28 June, 2022. Sector F-7/2, Islamabad.

Muhammad, Anwar, (Executive Director, Pakistan Institute for Parliamentary Services, Jan. 01 to date). Interview by researcher. 07 May, 2021. PIPS, Islamabad.

Members of the Commons/Lords (UK Parliament)

Brock, Deidre, member of the House of Commons and Spokesperson Scottish National Party. Interview by researcher. 21 August, 2023. EH6 5LJ, Edinburgh, Scotland.

Hamilton, Alex. Cole., member of the Scottish Parliament and Party Head Scottish Liberal Democrats Party. Interview by researcher. 12 August, 2023. EH99 1SP, Edinburgh, Scotland.

Norton, Philip, member of the House of Lords. Interview by researcher. 22 September, 2023. House of Lords, London, United Kingdom.

Journalists

Alam, Absar. Interview by researcher. 19 July, 2021. F-11/2, Islamabad.

Alvi, Mumtaz. Interview by researcher. 14 April, 2022. Satellite Town, Rawalpindi.

Jan, Matiullah. Interview by researcher. 24 July, 2021. The Supreme Court of Pakistan, Islamabad.

Khan, Wusatullah. Interview by researcher. 28 March, 2022. Islamabad Hotel Melody, Islamabad.

Syed, Ahzaz. Interview by researcher. 27 June, 2021. Geo News Office, A.K. Fazal-i-Haq Road, Islamabad.

Yusuf, Nosheen. Interview by researcher. 28 June, 2021. Geo News Office, A.K. Fazal-i-Haq Road, Islamabad.

Waseem, Amir. Interview by researcher. 09 April, 2021. Dawn News, Zero Point, Islamabad.

Others

Bari, Sarwar, Free and Fair Elections Network (FAFEN), Islamabad. Interview by researcher. 17 April, 2021. F-10/2, Islamabad.

Dilshad, Kanwar Muhammad, former Secretary Election Commission of Pakistan. Interview by researcher. 04 April, 2022. Embassy Road, Islamabad.

II. Secondary Sources

Books

- Adeney, Katharine. *Federalism and Ethnic Conflict Regulation in India and Pakistan* (New York: Palgrave Macmillan, 2007).
- Afzal, M. Rafique. *Political Parties in Pakistan, 1947-58* Vol. I (Islamabad: National Institute of Historical and Cultural Research, 2002).
- _____. *Political Parties in Pakistan, 1948-69* Vol. II (Islamabad: National Institute of Historical and Cultural Research, 2000).
- _____. *Political Parties in Pakistan, 1969-71* Vol. III (Islamabad: National Institute of Historical and Cultural Research, 1998).
- _____. *Pakistan: History and Politics 1947–1971* (Karachi: Oxford University Press, 2001).
- Afzal, Nabeela. *Women and Parliament in Pakistan* (Lahore: Pakistan Study Centre, University of Punjab, 1997).
- Ahmad, Masood. *Pakistan: A Study of Its Constitutional History, 1857-1975* (Lahore: Research Society of Pakistan, 1978).
- Ahmad, Muneer. *Legislatures in Pakistan* (Lahore: University of Punjab, 1960).
- Ahmad, Mushtaq. *Government and Politics in Pakistan* (Karachi: Royal Book Company, 2009).
- Ahmad, Nizam and Philip Norton eds. *Parliament in Asia* (London: Routledge, 1999).
- Ahmad, Nizam. *Parliaments in South Asia: India, Pakistan and Bangladesh* (London: Routledge Publishers, 2022).
- Amoretti, Ugo M. and Nancy Bermeo. *Federalism and Territorial Cleavages* (Maryland: John Hopkins University, 2004).
- Ansari, Sarah. *Life After Partition: Migration, Community and Strife in Sindh, 1947-1962* (Oxford: Oxford University Press, 2005).
- Aristotle. *Politics*, Eng. translation by Benjamin Jowett (Oxford: Clarendon Press, 1885).
- Aylmer, G. E. *The Struggle for the Constitution: England in the Seventeenth Century* (London: Blandford Press, 1968).
- Azfar, Kamal. *Pakistan: Political and Constitutional Dilemmas* (Karachi: Pakistan Law House, 1995).
- Aziz, K. K. *Party Politics in Pakistan, 1947-58* (Lahore: Sang-e-Meel, 2007).
- Aziz, Mazhar. *Military Control in Pakistan* (London: Routledge, 2008).

- Bagehot, Walter. *The English Constitution* (Cambridge: Cambridge University Press, 2001).
- Bari, Farzana. *Role and Performance of Pakistani Women Parliamentarians, 2002-2007* (Islamabad: Pattan Development Publishers, 2009).
- Baxter, Craig et al. *Government and Politics in South Asia* (Oxford: Westview Press, 1987).
- Bhatnagar, Akshay Kumar. *The Rajya Sabha: A Critical History* (Allahabad: Chugh Publications, 1977).
- Billias, George Athan. ed. *The Federalists: Realists or Ideologues* (Massachusetts: D. C. Heath and Company, 1970).
- Blondel, Jean. *Comparative Legislatures* (New Jersey: Prentice-Hall Inc., 1973).
- Bogdanor, Vernon and David Butler. *Democracy and Elections: Elected Systems and their Political Consequences* (London: Cambridge University Press, 1983).
- Börzel, T.A. *The State and the Regions* (Cambridge: Cambridge University Press, 2002).
- Brass R., Paul. *Routledge Handbook of South Asian Politics: India, Pakistan, Bangladesh, Sri Lanka and Nepal* (London: Routledge Publisher, 2010).
- Burki, Shahid Javed. *Pakistan under Bhutto* (New York: St. Martin's Press, 1980).
- Butler, David. *Democracy and Elections: Elected Systems and their Political Consequences* (London: Cambridge University Press, 1983).
- Butt, Ronald. *A History of Parliament: The Middle Ages* (London: Constable and Company Limited, 1989).
- Calca, Patrícia. *Executive-Legislative Relations in Parliamentary Systems: Policy-Making and Legislative Processes* (London: Palgrave Macmillan, 2022).
- Choudhury, G. W. *Constitutional Developments in Pakistan* (London: Longman Group Ltd., 1959).
- _____. *The Last Days of United Pakistan* (London: C. Hurst and Company, 1974).
- _____. *The First Constituent Assembly of Pakistan (1947-1954)* (Columbia: Columbia University Press, 1956).
- Cicero, Marcus Tullius. *Treatise on the Republic and Treatise on the Laws*, Eng. Trans., Francis Barham (London: Spettigue Printers, 1841).
- Collard, Keith. *Pakistan: A Political Study* (London: George Allen and Unwin, 1957).
- Convery Alan. *The Territorial Conservative Party: Devolution and Party Change in Scotland and Wales* (Manchester: Manchester University Press, 2016).

- Dahl, Robert A. *A Preface to Economic Democracy* (California: University of California Press, 1986).
- _____. *Democracy, Liberty and Equality* (Oslo: Norwegian University Press, 1987).
- Davis, K. *The Population of India and Pakistan* (Princeton: Princeton University Press, 1951).
- Dilshad, Kanwar Muhammad. *Intikhabaat ki Science aur Aslahaat* [The Science and Reforms of Elections] (Lahore: Aks Publications, 2022).
- Duverger, Maurice. *Political Parties: Their Organization and Activity in the Modern State* (London: Methuen Publishing, 1954).
- _____. *Party Politics and Pressure Groups: A Comparative Introduction*, trns. by Robert Wagoner (London: Thomas Y. Crowell Company Inc., 1972).
- Eldridge, Albert F. ed. *Legislatures in Plural Societies: The Search for Cohesion in National Development* (Durham: Duke University Press, 1977).
- Enloe, Cynthia H. *Ethnic Conflict and Political Developments* (Boston: Little Brown and Company, 1973).
- Faiz, Asma. ed. *Making Federation Work: Federalism in Pakistan After the 18th Amendment* (Karachi: Oxford University Press, 2015).
- Farrell, David M. *Electoral Systems: A Comparative Introduction* (London: Palgrave Macmillan, 2001).
- Finer, S.E. Vernon Bogdanor and Bernanrd Rudden. *Comparing Constitutions* (Oxford: Clarendon Press, 1995).
- Feldman, Rupert. *A Constitution for Pakistan* (Karachi: Oxford University Press, 1955).
- Gaddes, Marc. *Dramas at Westminster: Select Committees and Quest for Accountability* (Manchester: Manchester University Press, 2020).
- Garcia, Michael J. et al. eds. *The Constitution of the United States of America: Analysis and Interpretation* (Washington: Congressional Research Service Library of Congress, 2016).
- Haqqani, Husain. *Pakistan between Military and Mosque* (Lahore: Vanguard Books, 2005).
- Hardgrave, L. Robert. *India: Government and Politics in Developing Nation* (New York: Harcourt Brace Inc., 1980).
- Heitshusen, Valerie. *Introduction to the Legislative Process in the U.S. Congress* (Washington: Congressional Research Service, 2020).

- Hillel, Fradkin, Husain Haqqani, and Eric Brown, eds. *Current Trends in Islamist Ideology* (Washington: Hudson Institute, Inc., 2019).
- Hussain, Mahboob. *The Parliament of Pakistan: A History of Institution-Building and (Un) Democratic Practices, 1971–1977* (Karachi: Oxford University Press, 2019).
- Imran, Naumana Kiran. *The Federal Cabinet of Pakistan: Formation and Working, 1947-1977* (Karachi: Oxford University Press, 2016).
- Jalal, Ayesha. *The State of Martial Rule: The Origins of Pakistan's Political Economy of Defense* (New York: Cambridge University Press, 1990).
- Jennings, Sir Ivor. *Constitutional Problems in Pakistan* (Cambridge: Cambridge University Press, 1957).
- _____. *Parliament* (Cambridge: Cambridge University Press, 1970).
- Keir, David Lindsay. *The Constitutional History of Modern Britain Since 1485* (London: English Language Book Society, 1938).
- Kennedy, Charles H. *Bureaucracy in Pakistan* (Karachi: Oxford University Press, 1987).
- Khan, Hamid. *Constitutional and Political History of Pakistan* (Karachi: Oxford University Press, 2009).
- King, Preston. *Federalism and Federation* (London: Croom Helm International, 1982).
- Kureja, Veena. *Civil-Military Relations in South Asia: Pakistan, Bangladesh and India* (New Delhi: Sage Publications, 1991).
- L.A., Kosinski and K.M. Elahi. *Population Redistribution and Development in South Asia* (Berlin: Springer Science and Business Media, 2012).
- Lakeman, Enid and James D. Lambert. *Voting in Democracies: A Study of Majority and Proportional Electoral Systems* (London: Faber and Faber, n.d.).
- Lanudy, Philip. *Parliaments in the Modern World* (London: Dartmouth Publishing Company, 1989).
- Lee, Frances E. and Bruce I. Oppenheimer. *Sizing up the Senate: The Unequal Consequences of Equal Representation* (Chicago: University of Chicago Press, 1998).
- Lijphart, Arend. *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-one Countries* (New Haven: Yale University Press, 1984).
- _____. *Parliamentary Verses Presidential Government* (Oxford: Oxford University Press, 1992).
- _____. *Election Systems and Party Systems: A Study of Twenty-Seven Democracies, 1945-1900* (Oxford: Oxford University Press, 1994).

- _____. *The Politics of Accommodation: Pluralism and Democracy in the Netherlands* (California: University of California Press, 1975).
- Lock, John. *Two Treatises of Government*, Peter Laslett ed. (Cambridge: Cambridge University Press, 1988).
- Longley, Lawrence D. and David M. Olson eds. *Two into One: The Politics and Processes of National Legislative Cameral Change* (Boulder: Westview Press, 1991).
- Longley, Lawrence D. and Walter J. Oleszek. *Bicameral Politics: Conference Committees in Congress* (New Haven: Yale University Press, 1989).
- M, Rashiduzzaman. *The Central Legislature in British India, 1921-1947* (Dacca: Mullick Brothers, 1965).
- Madison, Alexander Hamilton, John Jay and James. *The Federalist Papers*, George W. Carey and James MacLellan eds. (Indiana: Library Fund Inc., 2001).
- Madison, James. *The Debates in the Several State Conventions on the Adoption of the Federal Constitution* Jonathan Elliot ed. (Arizona: U.S. History Publisher, 2014).
- Mahmood, Naazir. *Alternative History* (Karachi: Badalti Dunya Publication, 2019).
- Mahmood, Safdar. *Political Roots and Development in Pakistan, 1947-1999* (Karachi: Oxford University Press, 2002).
- Mahmood, Sh. Shaukat. *The Constitution of Pakistan* (Lahore: Pakistan Law Time Publications, nd).
- Malik, Rizwan. *The Politics of One Unit, 1955-58* (Lahore: Pakistan Study Centre, University of Punjab, 1988).
- Marongiu, Antonio. *Medieval Parliaments* Eng, Trans. S. J. Woolf (London: Eyre and Spottiswoode Publishers, 1968).
- Marongiu, Antonio. *Medieval Parliaments: A Comparative Study* (London: Eyre and Spottiswoode Publishers, 1968).
- Marriot, John A. R. *Second Chambers: In Inductive Study in Political Science* (Oxford: Clarendon Press, 1927).
- McKechnie, William Sharp. *The Reform of the House of Lords* (Glasgow: James MacLehose and Sons, 1909).
- Mellor, Roy E. H. *Nation, State and Territory: A Political Geography* (London: Routledge Publishers, 1989).
- Mill, John Stuart. *Essays on Politics and Society* J.R. Robson ed. (Toronto: University of Toronto Press, 1977).

- Montesquieu, Charles de Secondat, Baron de. *The Spirit of Laws*, Eng. Trans. Thomas Nugent (Ontario: Batoche Books, 2001).
- Munir, M. Justice. *Constitution of the Islamic Republic of Pakistan* (Lahore: All Pakistan Legal Decisions, 1965).
- Naz, Huma. *Bureaucratic Elites and the Political Developments in Pakistan 1947-58* (Islamabad: National Institute of Pakistan Studies, 1990).
- Niaz, Ilhan. *Culture of Power and Governance in Pakistan, 1947-2008* (Karachi: Oxford University Press, 2010).
- _____. *The State During the British Raj: Imperial Governance in South Asia, 1700-1947* (Karachi: Oxford University Press, 2020).
- Nice, David C. *Federalism: The Politics of Intergovernmental Relations* (New York: St. Martin's Press, 1987).
- Norton, Philip ed. *Legislatures* (Oxford: Oxford University Press, 1990).
- _____. *Reforms of the House of Lords* (Manchester: Manchester University Press, 2017).
- Paddison, Ronan. *The Fragmented State: The Political Geography of Power* (Oxford: Basil Blackwell Publishers Limited, 1983).
- Patterson, Samuel C. and Anthony Mughan. *Senates: Bicameralism in the Contemporary World* (Ohio: Ohio State University Press, 1999).
- Pelizzo, Riccardo and Frederick Stapenhurst. *Parliamentary Oversight Tools: A Comparative Analysis*. (London: Routledge, 2012).
- Pitkin, H. *The Concept of Representation* (Berkeley: University of California Press, 1967).
- Plato. *The Republic* Eng. trans. Allan Bloom (New York: Basic Books Publishers, 1968).
- Pollard, A. F. *The Evolution of Parliament* (Longman Publishing Co., 1964).
- Prophet, John. *The Structure of Government* (London: Longmans Green and Co., 1967).
- Pulzer, Peter G. J. *Political Representation and Elections: Parties and Voting in Great Britain* (New York: Frederick A. Praeger Publisher, 1967).
- Raaflaub, Kurt A. Josiah Ober, and Robert W. Wallace. *Origins of Democracy in Ancient Greece* (London: University of California Press, 2007).
- Rais, Rasul Bakhsh. *State. Society and Democratic Change in Pakistan* (Karachi: Oxford University Press, 1996).

- Rehman, Tariq. *Language and Politics in Pakistan* (Karachi: Oxford University Press, 1996).
- Riker, William H. *The Development of American Federalism* (Boston: Kluwer Academic Publisher, 1987).
- Rizvi, Hasan Askari. *The Military and Politics in Pakistan 1947-77* (Lahore: Sange-i-Meel Publications, 2000).
- Roeder, Philip G. *Where Nation-States Come From: Institutional Change in the Age of Nationalism* (Princeton: Princeton University Press, 2007).
- Russel, Meg. *Reforming House of Lords: Lesson from Overseas* (Oxford: Oxford University Press, 2002).
- _____. *Reforming the House of Lords* (Oxford: Oxford University Press, 2000).
- Sartori, Giovanni. *Comparative Constitutional Engineering: An Inquiry into Structures, Incentives and Outcomes* (London: Macmillan Press, 1994).
- Sayeed, Khalid B. *Politics in Pakistan: Nature and Direction of Change* (California: Praeger Publishers Inc., 1980).
- _____. *The Political System of Pakistan* (Kingston: Queens's University Press, 1966).
- Schneider, Judy. *House and Senate Rules of Procedure: A Comparison* (Washington: Congressional Research Service, 2008).
- Schneider, Edward. *Crafting Constitutional Democracies: The Politics of Institutional Design* (Oxford: Rowman and Littlefield Publishers, Inc., 2006).
- Smiley, R. L. Watts and D. V. *Inter-State Federalism in Canada* (Toronto: Toronto University Press, 1985).
- Sulehri, Muhammad Anwar. *Parliamentary Practice and Working of Legislatures in Pakistan* (Rawalpindi: Mahmood Brothers Printers, 2019).
- Smith, David E. *The Canadian Senate in Bicameral Perspective* (Toronto: Toronto University Press, 2006).
- Smith, Steven S. *Call to Order: Floor Politics in the House and Senate* (Washington: Brookings 1989).
- Stepan, Alfred. *Arguing Comparative Politics* (Oxford: Oxford University Press, 2001).
- Storing, Herbert J. *The Anti-Federalist: An Abridgement* (Chicago: University of Chicago Press, 1985).
- Story, Joseph. *Commentaries on the Constitution of the United States* (Boston: Hillard, Gray, 1833).

- Swenden, Wilfried. *Federalism and Second Chambers, Regional Representation in Parliamentary Federation: The Australian Senate and German Bundesrat Compared* (Brussels: P.I.E.-Peter Lang, 2004).
- Swift, Elaine K. *The Making of an American Senate: Reconstitutive Change in Congress, 1787–1841* (Ann Arbor: University of Michigan Press, 1996).
- Talbot, Ian. *Pakistan: A Modern History* (Karachi: Oxford University Press, 1999).
- Tseblelis, George and Jeannttee Money. *Bicameralism* (Cambridge: Cambridge University Press, 1997).
- Tsebelis, George. *Veto Players: How Political Institutions Work* (New Jersey: Princeton University Press, 2002).
- Watts, Ronald L. *Comparing Federal Systems* (Ontario: Queen’s University Press, 1999).
- Where, K. C. *Legislatures* (London: Oxford University Press, 1968).
- _____. *Federal Government* (New York: Oxford University Press, 1964).
- _____. *Modern Constitutions* (London: Oxford University Press, 1951).
- Wolpert, Stanley. *Zulfi Bhutto of Pakistan: His Life and Times* (Karachi: Oxford University Press, 1993).
- Wood, Gordon S. *The Creation of the American Republic 1776-1787* (Chapel Hill: University of North Carolina Press, 1969).
- Yamamoto, Hironori. *Tools for Parliamentary Oversight: A Comparative Study of 88 National Parliaments* (Geneva: Inter-Parliamentary Union 2007).
- Ziring, Lawrence. *Pakistan: The Enigma of Political Development* (Boulder, Colorado: Westview Press, 1980).

Chapters in Edited Books

- Ahmad, Syed Jaffar. “Intergovernmental Relations in the Federal System of Pakistan,” in *Making Federation at Work: Federalism in Pakistan After the 18th Amendment*, Asma Faiz ed. (Karachi: Oxford University Press, 2015), 97-120.
- Anderson, George and Sujit Choudhary. “Territorial Cleavages and Constitutional Transitions: Political Mobilization, Constitution-Making Processes, and Constitutional Design,” in *Territory and Power in Constitutional Transitions*, George Anderson and Sujit Choudhry eds. (Oxford: Oxford University Press, 2019), 374-75.

Baxter, Craig. "Pakistan and Bangladesh" in *Ethnic Separatism and World Politics*, Frederick L. Shiels ed. (New York: University Press of America, 1984), 209-363.

Blondel, Jean et al. "Legislative Behaviour: Some Steps Towards a Cross-National Measurement", in *Legislatures*, Philp Norton ed. (Oxford: Oxford University Press, 1990), 186-208.

Khan, Zafarullah. "Future of Pakistani Federation: A Case Study of the Council of Common Interests", *Making Federation at Work: Federalism in Pakistan After the 18th Amendment*, in Asma Faiz ed. (Karachi: Oxford University Press, 2015), 45-51.

Pasha, G. and Hafeez A. Pasha. "Financial Implications of Devolution in Pakistan," in *Making Federation at Work: Federalism in Pakistan After the 18th Amendment*, Asma Faiz ed. (Karachi: Oxford University Press, 2015), 121-41.

Sharman, Campbell. "Second Chamber," in *Federalism and the Role of State*, Bakvis, H. and Chandler, W. eds. (Toronto: Toronto University Press, 1987), 75-81.

Sinclair, Barbara. "Coequal Partner: The U.S. Senate", in *Senates: Bicameralism in the Contemporary World*, Samuel C. Patterson and Anthony Mughan eds. (Ohio: Ohio State University Press, 1999), 32-59.

Swenden, Wilfried. "Subnational Participation in National Decisions: The Role of Second Chambers," in *Handbook on Multi-level Governance*, Henrik Enderlein, Sonja Walti and Michael Zurn eds. (Northampton: Edwards Elgar Publishing, Inc., 2010), 103-23.

Thompson, Louise and Tony McNulty. "Committee Scrutiny of Legislation," in *Exploring Parliament*, Cristina Leston-Bandeire and Louise Thompson eds. (Oxford: Oxford University Press, 2018), 90-100.

Tsebelis, George and Bjorn Erik Rasch. "Patterns of Bicameralism," in *Parliaments in Western Europe: Majority Rule and Minority Rights*, H. Doering, ed. (New York: St. martin's Press, 1995), 365-90.

Articles in Research Journals

Adeney, Katharine and Filippo Boni. "Federalism and Regime Change: De/centralization in Pakistan-1956-2020," *Regional and Federal Studies*, Vol 32, No. 1 (2020), 1-29.

_____. "A Step Towards Inclusive Federalism in Pakistan? The Politics of 18th Amendment," *Publius*, Vol 42, No. 4 (2012), 539-65.

- Ahmad, Riaz. "Pakistan's First Constituent Assembly's Efforts for the Making of Constitution 1947-1954," *Pakistan Journal of History and Culture*, Vol 23. No. 1 (2002), 1-37.
- Ahmed, Manzoor and Jalal Faiz. "The Experiment of Federalism in Pakistan: An Analytical Study," *Pakistan Journal of History and Culture*, Vol 27, No.1 (2016), 59-72.
- Ali, Syed Azhar. "Unicameralism in United Pakistan: Why and How," *Pakistan Horizon* Vol 48, No. 3 (1995), 69-80.
- Alvarez, Michael, R. and Betsy Sinclair. "Electoral Institutions and Legislative Behavior: The Effects of Primary Processes," *Political Research Quarterly*, Vol 20, No. 10 (2011), 1-14.
- Arretche, Marta. "Demos-Constraining or Demos-Enabling Federalism? Political Institutions and Policy Change in Brazil," *Journal of Politics in Latin America*, Vol 5, No. 2 (2013), 133-50.
- Baldwin, James F. "Early Records of the King's Council," *The American Historical Review*, Vol 11, No. 1 (Oct., 1905), 1-15.
- Barnett, James D. "The Bicameral System in State Legislation," *The American Political Science Review*, Vol 9, No. 3 (Aug., 1915): 449-66.
- Baxter, Craig. "Constitution Making: The Development of Federalism in Pakistan," *Asian Survey*, Vol 14, No. 12 (December, 1974), 1074-85.
- _____. "Pakistan Votes," *Asian Survey*, Vol 11, No. 3 (Mar., 1971), 197-218.
- Bhatia, Udit. "Indirect Elections as Constitutional Device of Epistocracy," *International Journal of Constitutional Law*, Vol 20, No. 1 (2022), 82-111.
- Boucoyannis, Deborah. "No Taxation of Elites, No Representation: State Capacity and the Origins of Representation," *Politics and Society*, Vol 43, No. 3 (2015), 303-332.
- Bradley, Phillips. "Legislative-Executive Relations in The United States," *The Indian Journal of Political Science*, Vol 19, No. 2 (April-June, 1958), 93-114.
- Coghill, Ken Ross Donohue and Colleen Lewis. "Developing Parliament's Oversight Capacity Through MPs' Professional Development," *Inter Parliamentary Union*, No. 1, Vol 29, (Autumn 2014), 43-53.
- Delledonne, Giacomo. "Perfect and Imperfect Bicameralism: A Misleading Distinction?," *Perspectives on Federalism*, Vol 10, No. 2, (2018), 71-95.

- Duchacek, I. D. "Antagonist Cooperation: Territorial and Ethnic Communities," *Publius*, Vol 7, No. 4 (1977), 3-29.
- Duverger, Maurice. "The Political Consequences of the Alternative Vote: Lessons from Western Canada," *Canadian Journal of Political Science*, Vol 37, No. 3 (2004), 647-69.
- Borthwick, R.L. "Methods of Composition of Second Chambers," *Journal of Legislative Studies*, Vol 7, No. 1 (2001), 19-26.
- Fareel, David M. and Ian McAllister. "Legislative Recruitment to Upper Houses: The Australian Senate and House of Representatives Compared," *Journal of Legislative Studies*, Vol 1, No. 2 (1995), 243-63.
- Fishburn, Peter C. "Simple Voting Systems and Majority Rule," *Journal of the Society for General Systems Research*, Vol 19, No. 3 (May 1974), 166-76.
- Gamper, Anna. "Legislative Functions of Second Chambers in Federal Systems," *Perspectives on Federalism*, Vol 10, No. 2 (June 2018), 117-33.
- Hansen, Martin Ejnar. "Distributing Chairs and Seats in Committees: A Parliamentary Perspective," *Parliamentary Affairs*, Vol. 72, No. 1 (2019), 202–22.
- Hoddie, Mathew. "Introduction: Segment States in the Developing World," *Ethnopolitics*, Vol 13, No. 1 (2014), 1-12.
- Holcombe, Randall G. "Checks and Balances: Enforcing Constitutional Constraints," *Economies*, Vol. 6, No. 57 (2018), 1.12.
- Hussain, Mahboob and Rizwan Ullah Kokab, "Eighteenth Amendment in the Constitution of Pakistan: Success and Controversies," *Asian Social Science*, Vol 8, No. 1 (January, 2012), 81-88.
- _____. "Institutional Relationship in Pakistan: A Study of Army and Parliament (1971-1977)," *Pakistan Vision*, Vol 14, No. 1 (2013), 116-29.
- _____. "Power Dynamics of State Institutions in Pakistan: Discourse Analysis of Bureaucracy and the Legislature (1971-1977)," *A Research Journal of South Asian Studies*, Vol 30, No. 2 (July -December 2015), 177-86.
- _____. "Institution of Parliament in Pakistan: Evolution and Building Process (1947-1970)," *Journal of Political Studies*, Vol 18, No.2 (2011), 77-99.
- _____. "Sovereignty of Parliament as Constituent Assembly and Framing the Constitution of 1973," *Journal of the Research Society of Pakistan*, Vol 50, No.1 (2013), 81-100.

- Hussain, Dilawar. "A Content Analysis of the Hindu Marriage Act, 2017," *Progressive Research Journal of Arts and Humanities*, Vol 4, No. 1 (2022), 104-14.
- Javaid, Umbreen and Amir Latif. "Historical Analysis of Political Governments of Pakistan: A History of First Six Decades (1947-2007)", *Pakistan Vision*, No. 1, Vol. 18, (2017), 214-228.
- Khalid, Iram. "Politics of Federalism in Pakistan: Problems and Prospects", *A Research Journal of South Asian Studies*. No. 1, Vol. 28, (January-June 2013), 199-212.
- Khan, Ayesha and Sana Naqvi. "Dilemmas of Representation: Women in Pakistan's Assemblies," *Asian Affairs*, Vol 51, No. 2 (2020), 286-306.
- Khan, Kishwar. "Bicameralism in a Federation: An Historical Analysis of Role of Senate in Promoting Federalism in Pakistan," *Pakistan Perspectives* Vol 22, No.1 (2017), 135-58.
- Kinyondo, Abel, Riccardo Pelizzo and Aminu Umar. "A Functionalist Theory of Oversight," *African Politics and Policy*, Vol 1, No. 5 (2015), 1-25.
- Lees-Smith, H.B. "The Bryce Conference on the Reform of the House of Lords," *Economica*, No. 6, (Oct. 1922), 220-27.
- Lijphart, Arend. "Constitutional Design for Divided Societies," *Journal of Democracy*, Vol 15, No. 2 (Apr 2004), 96-109.
- Mahmood, Tahir. "A Comparative Analysis of the Functioning of the Senate in USA and Pakistan," *A Research Journal of South Asian Studies*, Vol. 30, No. 2 (July-December 2015), 265-80.
- Malik, Rahat Zubair. "Parliament: Legislature of Pakistan in the Hatching (1947-69)," *Global Social Sciences Review*, Vol. 2, No. 1 (Spring 2017), 47-66.
- Munawar, Shahzad and Muhammad Mushtaq. "Evolution of Federalism in Pakistan: A Constitutional Study," *Pakistan Journal of Social Research*, Vol 4, No. (2022), 468-79.
- Mushtaq, Muhammad and Sultan Mubariz Khan. "Territorial Role of Second Chamber in Parliamentary Federations: Evidence from Pakistan," *FWU Journal of Social Sciences*, Vol 12, No.1 (Summer 2018), 114-22.
- Mushtaq, Muhammad. "Empowering Ethnoregional Minorities and the Federal Bicameralism: Examining the Role of Senate in Pakistan," *FWU Journal of Social Sciences, Special Issue*, No.4 (2017), 1-11.
- Olson, David M. and Philip Norton. "Legislatures in Democratic Transition," *The Journal of Legislative Studies*, Vol. 2, No. 1 (1996), 1-15.

- Ortega, Lydia D. and Lawrence J. McQuillan. "Why Does the Senate "Win" in Conference Committee?: A Stability Explanation," *Public Choice*, Vol 87, No. 1/2 (Apr., 1996), 101-16.
- Patterson, Samuel C. and Anthony Mughan. "Fundamentals of Institutional Design: The Functions and Powers of Parliamentary Second Chambers," *Journal of Legislative Studies*, Vol. 7, No. 1 (2001), 39-60.
- Pelizzo, Riccardo and Rick Stapenhurst. "Oversight Effectiveness and Political Will: Some Lessons from West Africa," *The Journal of Legislative Studies*, Vol. 20, No. 2 (2013), 255-61.
- Pelizzo, Riccardo and Abel Kinyondo. "Public Accounts Committees in Eastern and Southern Africa: A Comparative Analysis," *Politics and Policy*, Vol 42, No. 1 (2014), 77-101.
- Rashiduzzaman, M. "The National Assembly of Pakistan Under the 1962 Constitution," *Pacific Affairs*, Vol 42, No. 4 (Winter, 1969-1970), 481- 93.
- Riaz, Hira and et.al. "Role of Senate in Federalism: An Evidence from Pakistan in the Post 18th Amendment Scenario," *Journal of Management Practices, Humanities and Social Sciences*, Vol 5, No. 3 (2021), 1-8.
- Rid, Saeed Ahmed. "The Emergence and Evolution of Upper House (the Senate) in Pakistani Federalism (1947 to the 18th Amendment 2010 and afterwards)," *Pakistan Journal of History and Culture*, Vol. 40, No. 2 (2019), 1-20.
- Riker, William H. "The Senate and American Federalism," *American Political Science Review*, Vol 49, No. 2 (June, 1955), 452-69.
- _____. "The Justification of Bicameralism," *International Political Science Review*, Vol 13 No. 2 (1992), 101-16.
- Rogers, James R. "An Informational Rationale for Congruent Bicameralism," *Journal of Theoretical Politics*, Vol 13, No. 2 (2001), 123-51.
- _____. "The Impact of Bicameralism on Legislative Production," *Legislative Studies Quarterly*, Vol 28, No. 4 (Nov., 2003), 509-28.
- Roniger, Luis. "Political Clientelism, Democracy, and Market Economy," *Comparative Politics*, Vol 36, No. 3, (2004), 353-75.
- Russel, Meg. "The Territorial Role of the Second Chamber," *Journal of Legislative Studies* Vol 7, No. 1 (2001), 105-18.

- _____. "Rethinking Bicameral Strength: A Three-Dimensional Approach," *The Journal of Legislative Studies*, Vol 19, No. 3 (2013), 370-91.
- _____. "What are Second Chambers for?," *Parliamentary Affairs*, Vol 54, No. 3, (1 July 2001), 442-58.
- Saul, Levmore. "Bicameralism: When Are Two Decisions Better than One?," *International Review of Law and Economics*, Vol 12, No. 2 (1992), 145-62.
- Scully, Roger. "Dealing with Big Brother: Relations with First Chamber," *Journal of Legislative Studies*, Vol 7, No. 1 (2001), 93-104.
- Shepsle, Kenneth A. Barry R. Weingast. "Structure-Induced Equilibrium and Legislative Choice," *Public Choice*, Vol 37, No. 3 (1981), 503-19.
- Smiley, D. V. "Federal-Province Conflicts in Canada," *Publius*, Vol 2, No. 24 (1974), 7-24.
- Squire, Peverill. "Historical Evolution of Legislatures in the United States," *Annual Review of Political Science*, Vol 1 (Nov. 28, 2005), 19-44.
- Stepan, Alfred. "Federalism and Democracy: Beyond the U.S. Model," *Journal of Democracy*, Vol 10, No. 4 (1999), 19-34.
- Swift, Elaine K. "The Making of an American House of Lords: The U.S. Senate in the Constitutional Convention of 1787," *Studies in American Political Development*, Vol 7. No. 2 (December-2008), 177-224.
- Taagepera, Rein Steven P. Recchia. "The Size of Second Chambers and European Assemblies," *European Journal of Political Research*, Vol 41, No. 2 (2002), 165-85.
- Tarlton, C. D. "Symmetry and Asymmetry as Elements of Federalism: A Theoretical Speculation," *Journal of Politics*, Vol 27, No. 1 (1965), 861-74.
- Tejani, Shabnum. "The Necessary Conditions for Democracy: B R Ambedkar on Nationalism, Minorities and Pakistan," *Economic and Political Weekly*, Vol. 48, No. 50 (December 14, 2013), 111-19.
- Thorlakson, Lori. "Comparing Federal Institutions: Power and Representation in Six Federations," *West European Politics*, Vol 26, No. 2 (April, 2003), 1-22.
- Tsebelis, George and Jeannette Money. "Bicameral Negotiations: The Navette System in France," *British Journal of Political Science*, Vol 25, No. 1 (Jan. 1995), 101-29.

Tsebelis, George. "Decision Making in Political Systems: Veto Players in Presidentialism, Parliamentarism, Multicameralism and Multipartyism," *British Journal of Political Science*, Vol 25, No. 3 (Jul. 1995), 289-25.

Waseem, Mohammad. "Pakistan: Majority-Constraining Federation," in *Making Federation at Work: Federalism in Pakistan After the 18th Amendment*, Asma Faiz ed. (Karachi: Oxford University Press, 2015), 24-35.

Zimmerman, Joseph F. "National-State Relations: Cooperative Federalism in the Twentieth Century," *Publius*, Vol 31, No. 2 (Spring, 2001), 15-30.

Unpublished Dissertations

Ahmad, Fouzia. "The Senate of Pakistan, 1973-1977." Unpublished M.Phil., diss. Department of History, Quaid-i-Azam University Islamabad, 2001.

Anwar, Shahid. "Parliamentary System in Pakistan: Socio-Cultural Institutional Dynamics." Unpublished M.Phil., diss. Department of Political Science, University of the Punjab, Lahore, 2004.

Ashraf, Muhammad Imran. "Federalism and Provincial Autonomy: Political and Economic Dimensions under the Constitution of Pakistan 1973." Unpublished Ph.D., diss. Department of Politics and International Relations International Islamic University Islamabad, 2016.

Bashir, Qurat-ul-Ain. "Parliamentary Democracy in Pakistan: 1988-1999." Unpublished Ph.D., diss. Department of History, Quaid-i-Azam University, Islamabad, 2015.

Khan, Arif. "An Assessment of the Peoples Party-Opposition Relationship in Pakistan (1972-1977)." Unpublished Ph.D., diss. Department of Political Science University of Peshawar, 2016.

Khan, Waseem. "Ethnic Federalism, State Reforms and Political Stability in Pakistan." Unpublished Ph.D., diss. Department of Political Science, Abdul Wali Khan University Mardan, 2019.

Malik, Rahat. "Working of the National Assembly, 1971-1977." Unpublished M.Phil., diss. Department of History, Quaid-i-Azam University Islamabad., 2004.

Naseem, Kamran. "The Politics of Federalism in Pakistan: An Analysis of the Major Issues of 18th and 20th Amendments." Unpublished Ph.D., diss. Department of Politics and IR, International Islamic University Islamabad., n.d.

Somroo, Ayaz Ahmad. "The Senate of Pakistan: Its Genesis and Quest for Empowerment, 1973-2017." Unpublished M.Phil., diss. National Institute of Pakistan Studies, Quaid-i-Azam University Islamabad., 2019.

Newspapers

Daily Dawn (Karachi)

Daily The News International (Islamabad)

Daily Jang (Rawalpindi)

Daily Nawa-i-Waqt (Islamabad)

Electronic Sources

Election Commission of Pakistan: <https://www.ecp.gov.pk/>.

Inter-Parliamentary Union: <http://archive.ipu.org/english/home.htm#gsc.tab=0>.

Library of Congress: <https://www.loc.gov/>.

National Assembly of Pakistan: <http://www.na.gov.pk/en/index.php>.

Pakistan Institute of Parliamentary Services (PIPS): <https://www.pips.gov.pk/>.

Parliament of United Kingdom: <https://www.parliament.uk/>.

Senate of Pakistan: <http://www.senate.gov.pk/en/index.php?id=-1andcattitle=Home>.

United States Congress: <https://www.congress.gov/>.

Reference Works

Encyclopedia Americana

Encyclopedia Britannica

Encyclopedia of Government and Politics

Encyclopedia of Political Thought

The Encyclopedia of Democracy

The Oxford Encyclopedia of Ancient Greece and Rome

Annexes

Annex I

Constitution-Making Process and Creation of the Senate of Pakistan: A Chronology, 1971-1973

Date	Event
December 20, 1971	Zulfiqar Ali Bhutto assumes the power.
March 4, 1972	First PPP-P-NAP/JUI Accord.
April 14, 1972	Meeting of the National Assembly in Islamabad.
April 17, 1972	The Assembly adopts and enacts the Interim Constitution and passes a resolution to appoint a 25-Members Constitution Committee.
April 21, 1972	Interim Constitution comes into force and martial law ends.
April 22, 1972	First meeting of the Committee held.
April 27, 1972	Second PPP-P-NAP/JUI Accord.
October 20, 1972	All Parties agreement on fundamental constitutional issues.
August 16, 1972	The Assembly adopts a resolution to extend the date up to December 31 1972 for submission of the draft constitution by the Committee.
December 31, 1972	The Committee presents draft constitution to the Assembly in the form of bill.
March 1, 1973	Opposition parties in the Assembly announces formation of United Democratic Front and release a 12-point declaration.
March 15, 1973	UDF announces amendments to draft Constitution
March 23, 1973	UDF decides to boycott amendments the Assembly session
April 4, 1973	President Bhutto's <i>Aide Memoire</i> after talks with the opposition parties.
April 10, 1973	The opposition ends boycott and the Assembly adopts the constitution bill.
April 12, 1973	Members affix signatures and president authenticates the Constitution of 1973.
July 4, 1973	Election of the Senate to elect the members from the Punjab.
July 6, 1973	Election of the Senate to elect the members from Sind.
July 8, 1973	Election of the Senate to elect the members from the Baluchistan.
July 9, 1973	Election of the Senate to elect the members from Federally Tribal Areas and the Capital Territory, Islamabad.
July 10, 1973	Election of the Senate to elect the members from the N.W.F.P.
August 6, 1973	Members of the Senate makes oath.
August 6, 1973	Mr. Habibullah Khan Mr. Mohammad Tahir were elected as the Chairman and Deputy Chairman of the Senate respectively.
April 4, 1974	Session of the Senate held in the new chamber.

Source: Constitution-Making in Pakistan, (Islamabad: National Assembly of Pakistan, 1975), 170-72.

Annex II
Members of the Constitution Drafting Committee, 1972

Sr. No.	Name	Constituency
1	Abdul Hafeez Pirzada (Chairman)	(NW-129, Karachi)
2	Malik Sikandar Khan	(NW-125, Dadu)
3	Ghulam Mustafa Khan Jatoi	(NW-113, Nawabshah)
4	Mr. Mahmud Ali Kasuri	(NW-60, Lahore)
5	Malik Mohammad Jafar	(NW-27, Rawalpindi)
6	Syed Qaim Ali Shah	(NW-114, Khairpur)
7	Dr. Ashraf Abbasi	(NW-143, Sindh)
8	Dr. Ghulam Hussain	(NW-32, Jhelum)
9	Begum Nasim Jahan	(NW-141, Punjab)
10	Ch. Barkatullah	(NW-83, Multan)
11	Malik Mohammad Akhtar	((NW-58, Lahore)
12	Ch. Jahangir Ali	(NW-39, Sargodha)
13	Maulana Kausar Niazi	(NW-75, Sialkot)
14	Mr. Khurshid Hasan Meer	(NW-26, Rawalpindi)
15	Mrs. Jennifer Jehanzeba Qazi Musa	(NW-144, Balochistan)
16	Sheikh Mohammad Rashid	(NW-61, Lahore)
17	Maulana Mufti Mahmood	(NW-13, Dera Ismail Khan)
18	Mr. Amirzada Khan	(NW-10, Mardan)
19	Khan Abdul Qaiyum Khan	(NW-4, Mardan/Hazara)
20	Mr. Mohammad Haneef Khan	(NW-11, Hazara)
21	Prof. Ghafoor Ahmed	(NW-132, Karachi)
22	Maulana Shah Ahmad Noorani Siddiqi,	(NW-134, Karachi)
23	Mr. Niamatullah Khan Shinwari	(NW-12, Kohat)
24	Sardar Shaukat Hayat Khan	(NW-30, Campbellpur, now Attock)
25	Mian Mumtaz Mohammad Khan Daulatana	(NW-84, Multan)

Note: Dr. Mubashir Hasan, Mr. Ghulam Mustafa Khar, Mr. Miraj Khalid and Mr. Mumtaz Ali Bhutto who were appointed to the Committee by the National Assembly resigned from membership of the Committee during its final session on account of other responsibilities connected with their government offices. Mr. Ghous Bakhsh Bizanjo also resigned during the last session of the Committee. Malik Mohammad Jafar, Ch. Jahangir Ali, Ch. Barkatullah, Malik Sikander Khan and Mrs. Jennifer Jehanzeba Qazi Musa were appointed as members in their place. *Source: Special Publication to Mark the Constitution Day* (Islamabad: The Senate of Pakistan, 2016), 26-27.

Annex III
Province/Territory-wise List of the Members of First Senate Elected in August 1973

Baluchistan Province					
Sr. No.	Name	Party	Sr. No.	Name	Party
1	Mir. Abdul Nabi Khan Jamali	PPP-P	6	Haji Syed Hussain Shah	NAP
2	Mir Mahmood Aziz Kurd	NAP	7	Mir Abdul Wahid	NAP
3	Mirza Tahir Kurd	PPP-P	8	Mir Hazoor Bukhush	INP
4	Mohammad Zaman Khan	JUI	9	Mir Nabi Bukhsh Zehri	PPP-P
5	Zumarud Hussain	NAP	10	Mohammad Hashim Ghilzai	NAP
N.W.F.P. Province					
1	Haji Shabib Shah	JUI	6	Habibullah Khan	PPP-P
2	Niamatullah	INP	7	Kamran Khan	NAP
3	Sardar Mohammad Aslam	PPP-P	8	Mir Afzal Khan	PPP-P
4	Shahzad Gul	NAP	9	Sher Muhammad Khan	PPP-P
5	Zafar Ahmad Qureshi	PPP-P	10	Zahoorul Haq	NAP
Punjab Province					
1	Chhoudhary Mohammad Aslam	PPP-P	6	Ahmed Waheed Akhtar	PPP-P
2	Fazal Elahi	PPP-P	7	Ihsanul Haq	PPP-P
3	Sardar Mohammad Aslam	PPP-P	8	Muhammad Safdar Khawaja	PML
4	Qazi M. Shahid	Data not Available	9	Moulvi Zaoohrul Haq	PPP-P
5	Mrs. Samia Usman Fateh	PPP-P	10	Rao Abdul Sattar	PPP-P
Sindh Province					
1	Agha Ghulam Nabi	PPP-P	6	Mirza M. Rafi Raza	PPP-P
2	J. A. Rahim	PPP-P	7	M. Suleman M. Samejo	PPP-P
3	Mehran Khan Bijarani	PPP-P	8	Qamaruzzaman Shah	PPP-P
4	Mufti Zafar Ali Noomani	JUP	9	Sardar Ghulam M. Khan	PPP-P
5	Qurban Ali Shah	Data Not Available	10	Zulfiqar Ali Shah	PML
Capital Territory-Islamabad					
1	Aziz Ahmad	PPP-P	2	Nagris Zaman Khan	PPP-P
FATA					
1	Ghulam Khan	Data Not Available	3	Malik Nusrullah Khan	IND
2	Khayal Said	IND	Total Members Elected in 1973: 45		

Source: *Who's Who in the Senate of Pakistan* (Islamabad: The Senate of Pakistan, nd).

Annex IV
Party Position in the Senate, March, 2012- March, 2018

March 2012-March 2015

Awami National Party (ANP)	5
Balochistan National Party Awami (BNP-A)	2
Jamiat Ulema-e-Islam Pakistan (JUIP)	3
Muttahidda Qaumi Movement (MQM-Pak)	4
Pakistan People s Party (PPP-P)	17
Pakistan Muslim League Nawaz (PML-N)	9
Pakistan Tehreek-e-Insaf (PTI)	1
Pakistan Muslim League (PML)	3
Pakistan Muslim League Functional (PML-F)	1
Independent (IND)	5

March 2015-March 2018

Balochistan Awami Party (BAP)	4
Balochistan National Party (BNP-M)	1
Jamaat-e-Islami Pakistan (JIP)	1
Jamiat Ulema-e-Islam Pakistan (JUIP)	2
Mutahidda Qaumi Movement (MQM-Pak)	4
National Party (NP)	2
Pakistan People s Party (PPP-P)	7
Pakistan Muslim League Nawaz (PML-N)	14
Pakistan Tehreek-e-Insaf (PTI)	7
Pakhtunkhwa Milli Awami Party (Pk-MAP)	2
Independent (IND)	6

Source: The researcher has retrieved data from the Library of the Senate (The Senate of Pakistan, Parliament House, Islamabad).

Annex V
Leadership in the Senate, 2012-2018

Chairmen of the Senate, 06 August 1973 to 11 March 2018

Sr. No.	Name	Party	Tenure
1	Habibullah Khan	PPP-P	6 th August, 1973 to 4 th July, 1977
2	Ghulam Ishaq Khan	No Political Affiliation ³²	21 st March, 1985 to 12 th December, 1988
3	Wasim Sajjad	PML	24 th December, 1988 to 12 th October, 1999
4	Mohammed Mian Soomro	PML	12 th March, 2003 to 11 th March, 2009
5	Farooq Hamid Naek	PPP-P	12 th March, 2009 to 11 th March, 2012
6	Nayyer Hussain Bokhari	PPP-P	12 th March, 2012 to 11 th March, 2015
7	Mian Raza Rabbani	PPP-P	12 th March, 2015 to 11 th March, 2018

Source: The researcher compiled this annex by retrieving data from the Senate Librarian (Senate Library, Parliament House, Islamabad).

Leadership in the Senate, March 2012 to March 2018

Office	Name	Party	Province/Territory	Tenure
Chairmen	Nayyer Hussain Bokhari	PPP-P	Capital Territory-Islamabad	March, 2012 to March, 2015
	Mian Raza Rabbani	PPP-P	Sindh	March, 2015 to March 2018
Deputy Chairmen	Sabir Ali Baloch	PPP-P	Balochistan	March 2012 to March 2015
	Abdul Ghafoor Haideri	JUI-P	Balochistan	March 2012 to March 2015
Leaders of the House	Jahangir Badar	PPP-P	Punjab	April 2012 to April 2013
	Raja Zafar-ul-Haq	PML-N	Punjab	May 2013 to June 2018
Leaders of the Opposition	Ishaq Dar	PML-N	Punjab	March 2012 to June 2013
	Aitzaz Ahsan	PPP-P	Punjab	June 2013 to March 2018

Source: Members Directory, 2015-2018 (Senate of Pakistan).

³² He was a bureaucrat-turned politician who did not have any political affiliation or support from a political party. He has been very close to General Zia ul-Haq, the then chief martial law administrator. Under the Zia, the *Majlis-i-Shura* or the parliament including senators was selected on non-party basis and Ishaq Khan been one those non-party based selected members. For more details on his political biography see, David Philip, "Ghulam the Grim: Requiem for a Despot", *Economic and Political Weekly*, Vol. 31, No. 51 (1996), 3295-3297.

Annex VI
Province/Territory-wise List of the Senators, March, 2012- March, 2018

Balochistan Province

Sr. No.	Name	Party	Education	Tenure
1	Muhammad Daud Khan Achakzai	ANP	Bachelor in Law	March 2012 to March 2018
2	Maulana Hafiz Hamdullah	JUI-F	Bachelor in Arts	March 2012 to March 2018
3	Mir Israrullah Khan Zehri	BNP-A	Bachelor in Arts	March 2012 to March 2018
4	Mufti Abdul Sattar	JUI-F	Shahadat-ul-Alyia	March 2012 to March 2018
5	Muhammad Yousaf Baloch	PPP-P	Bachelor of Arts	March 2012 to March 2018
6	Naseema Ehsan	BNP-A	Data not Available	March 2012 to March 2018
7	Nawabzada Saifullah Magsi	PPP-P	Bar-at-Law	March 2012 to March 2018
8	Rozi Khan Kakar	PPP-P	Bachelor in Law	March 2012 to March 2018
9	Rubina Irfan	PML	Bachelor of Arts	March 2012 to March 2018
10	Saeedul Hassan Mandokhail	PML-N	Bachelor of Arts	March 2012 to March 2018
11	Sardar Fateh Muhammad Muhammad Hassani	PPP-P	Data not Available	March 2012 to March 2018
12	Agha Shahbaz Durrani	PML-N	Bachelor of Engineering	March 2015 to March 2021
13	Dr. Ashok Kumar	NP	Bachelor of Medicine	March 2015 to March 2021
14	Dr. Jehanzeb Jamaldini	BNP-M	Bachelor of Medicine	March 2015 to March 2021
15	Gul Bashra	Pk-MAP	Data not Available	March 2015 to March 2021

16	Muhammad Azam Khan Musakhel	Pk-MAP	Bachelor in Arts	March 2015 to March 2021
17	Mir Kabeer Ahmed Muhammad Shahi	NP	Master of Public Administration	March 2015 to March 2021
18	Mir Muhammad Yousaf Badini	IND	Bachelor of Arts	March 2015 to March 2021
19	Molana Abdul Ghafoor Haideri	JUI-P	Religious Studies	March 2015 to March 2021
20	Hasil Khan Bizenjo	NP	Master in Philosophy	March 2015 to March 2021
21	Muhammad Usman Khan Kakar	Pk-MAP	Bachelor of Law	March 2015 to March 2021
22	Kalsoom Perveen)	PML-N	Master in Arts	March 2015 to March 2021
23	Mir Nematullah Zehri)	PML-N	Intermediate	March 2015 to March 2021

Source: Members Directory, 2015-2018 (Senate of Pakistan); and Scorecard on Senators' Performance, 2015-2016 (Lahore: PILDAT, 2016).

Khyber Pakhtunkhwa Province

Sr. No.	Name	Party	Education	Tenure
1	Ahmed Hassan	PPP-P	Bachelor of Law	March 2012 to March 2018
2	Atta Ur Rehman	JUI-F	Religious Studies	March 2015 to March 2021
3	Baz Muhammad Khan	ANP	Bachelor in Engineering	March 2012 to March 2018
4	Brig. (R) John Kenneth Williams	PTI	Master in Political Science	March 2015 to March 2021
5	Farhatullah Babar	PPP-P	Bachelor in Civil Engineering	March 2012 to March 2018
6	Ilyas Ahmad Bilour	ANP	Master in Business Administration	March 2012 to March 2018
7	Khanzada Khan	PPP-P	Bachelors in Business Administration	March 2015 to March 2021
8	Liaquat Khan Tarakai	PTI	Matriculation	March 2015 to March 2021
9	Lt. General (R) Salahuddin Tirmizi	PML-N	Master in War Studies	March 2015 to March 2021
10	Mohammad Azam Khan Swati	PTI	Master of Law	March 2012 to March 2018
11	Mohsin Aziz	PTI	Intermediate	March 2015 to March 2021
12	Muhammad Javed Abbasi	PML-N	Master of Law	March 2015 to March 2021
13	Muhammad Talha Mahmood	JUI-F	Bachelor of Arts	March 2012 to March 2018
14	Nauman Wazir Khattak	PTI	B.E. Aerospace	March 2015 to March 2021
15	Nisar Muhammad	PML-N	Master of Arts	March 2012 to March 2018
16	Rubina Khalid	PPP-P	Bachelor of Law	March 2012 to

				March 2018
17	Saifullah Khan Bangash	PPP-P	Matriculation	March 2012 to March 2018
18	Samina Abid	PTI	Matriculation	March 2015 to March 2021
19	Shahi Syed	ANP	Intermediate	March 2012 to March 2018
20	Sirajul Haq	Jl	Master in Political Science	March 2015 to March 2021
21	Sitara Ayaz	ANP	Bachelors of Arts	March 2015 to March 2021
22	Syed Shibli Faraz	PTI	Masters in Political Economy	March 2015 to March 2021
23	Zahida Khan	ANP	Matriculation	March 2012 to March 2018

Source: Members Directory, 2015-2018 (Senate of Pakistan); and Scorecard on Senators' Performance, 2015-2016 (Lahore: PILDAT, 2016).

Punjab Province

Sr. No.	Name	Party	Education	Tenure
1	Aitzaz Ahsan	PPP-P	Bachelor in Law	March 2012 to March 2018
2	Ayesha Raza Farooq	PML-N	Master in Business Management	March 2015 to March 2021
3	Chaudhary Tanvir Khan	PML-N	Under Matriculation	March 2015 to March 2021
4	Ghous Muhammad Khan Niazi	PML-N	Master in Medicine	March 2015 to March 2021
5	Hamza	PML-N	Master in Economics	March 2012 to March 2018
6	Kamil Ali Agha	PML	Bachelor in Law	March 2012 to March 2018
7	Kamran Michael	PML-N	Bachelor of Arts	March 2012 to March 2018
8	Khalida Parveen	PML-N	Bachelor of Arts	March 2012 to March 2018
9	Lt. General Abdul Qayyum HI (M) Retd.	PML-N	Master in Arts	March 2015 to March 2021
10	Mohammad Ishaq Dar	PML-N	B. Com (Hons)/Chartered Accountant	March 2012 to March 2018
11	Muhammad Mohsin Khan Leghari	IND	Bachelor of Arts	March 2012 to March 2018
12	Muhammad Zafar Ullah Khan Dhandla	PML-N	Intermediate	March 2012 to March 2018
13	Mushahidullah Khan	PML-N	Bachelor in Law	March 2015 to March 2021
14	Najma Hameed	PML-N	Intermediate	March 2015 to March 2021
15	Nehal Hashimi	PML-N	Bachelor of Law	March 2012 to March 2021
16	Nuzhat Sadiq	PML-N	Bachelor of Arts	March 2012 to

				March 2018
17	Pervaiz Rasheed	PML-N	Diploma in Marketing	March 2015 to March 2021
18	Prof. Sajid Mir	PML-N	Master in English	March 2015 to March 2021
19	Raja Muhammad Zafar-ul-Haq	PML-N	Bachelor in Law	March 2015 to March 2021
20	Saleem Zia	PML-N	Bachelor in Law	March 2015 to March 2021
21	Saud Majeed	PML-N	Bachelor of Business Administration	March 2012 to March 2018
22	Sirdar Zulfiqar Ali Khan Khosa	PML-N	Intermediate	March 2012 to March 2018
23	Zaheer Uddin Babar Awan	PPP-P	Ph.D. in Law	March 2015 to March 2021

Source: Members Directory, 2015-2018 (Senate of Pakistan); and Scorecard on Senators' Performance, 2015-2016 (Lahore: PILDAT, 2016).

Sindh Province

Sr. No.	Name	Party	Education	Tenure
1	Abdul Rehman Malik	PPP-P	Master in Statistics	March 2015 to March 2021
2	Col (R) Syed Tahir Hussain Mashhadi	MQM-Pak	Bachelor in War Studies	March 2012 to March 2018
3	Dr. Muhammad Farogh Naseem	MQM-Pak	Ph.D. in Law	March 2012 to March 2018
4	Farooq Hamid Naek	PPP-P	Bachelor in Law	March 2015 to March 2021
5	Gianchand	PPP-P	Bachelor in Agricultural Science	March 2015 to March 2021
6	Hari Ram	PPP-P	Matriculation	March 2012 to March 2018
7	Islamuddin Shaikh	PPP-P	Data not Available	March 2015 to March 2021
8	Karim Ahmed Khawaja	PPP-P	Master in Medicine	March 2012 to March 2018
09	Khushbakht Shujat	MQM-Pak	Bachelor of Arts	March 2015 to March 2021
10	Maulana Tanveer-ul-Haq Thanvi	MQM-Pak	Bachelor of Arts	March 2012 to March 2018
11	Mian Muhammad Ateeq Shaikh	MQM-Pak	Certificate of Hospitality Management	March 2015 to March 2021
12	Mian Raza Rabbani	PPP-P	Bachelor in Law	March 2012 to March 2018
13	Muhammad Ali Khan Saif	MQM-Pak	Master in Law	March 2015 to March 2021
14	Mukhtiar Ahmed Dhamrah	PPP-P	Bachelor of Arts	March 2012 to March 2018
15	Nasreen Jalil	MQM-Pak	B.S. Hons. in English	March 2012 to March 2018
16	Nighat Mirza	MQM-Pak	Master in Islamic Studies	March 2015 to

				March 2021
17	Saeed Ghani	PPP-P	Bachelor in Commerce	March 2012 to March 2018
18	Saleem Mandviwalla	PPP-P	Graduation in Aviation	March 2015 to March 2021
19	Sassui Palijo	PPP-P	Master in Political Science	March 2015 to March 2021
20	Sehar Kamran	PPP-P	Bachelor of Arts	March 2012 to March 2018
21	Sherry Rehman	PPP-P	B.A. Hons.	March 2015 to March 2021
22	Syed Muzafar Hussain Shah	PML-F	Master in International Relations	March 2012 to March 2018
23	Taj Haider	PPP-P	Master in Mathematics	March 2012 to March 2018

Source: Members Directory, 2015-2018 (Senate of Pakistan); and Scorecard on Senators' Performance, 2015-2016 (Lahore: PILDAT, 2016).

FATA

Sr. No.	Name	Party	Education	Tenure
1	Aurangzeb Khan	IND	Diploma in Technical Engineering	March 2015 to March 2021
2	Haji Momin Khan Afridi	IND	Bachelor of Arts	March 2015 to March 2021
3	Hidayat Ullah	IND	Bachelor of Arts	March 2012 to March 2018
4	Hilal-ur-Rehman	IND	Bachelor in Law	March 2012 to March 2018
5	Malik Najmul Hassan	IND	Intermediate	March 2012 to March 2018
5	Muhammad Saleh Shah	IND	Religious Studies	March 2012 to March 2018
7	Sajjad Hussain Turi	IND	Diploma in Civil Engineering	March 2015 to March 2021
8	Taj Muhammad Afridi	IND	Bachelor in Science	March 2015 to March 2021

Source: Members Directory, 2015-2018 (Senate of Pakistan); and Scorecard on Senators' Performance, 2015-2016 (Lahore: PILDAT, 2016).

Islamabad-Federal Capital Territory

Sr. No.	Name	Party	Education	Tenure
4	Muhammad Yaqoob Khan Nasar	PML-N	Master in Political Science	March 2015 to March 2021
1	Mushahid Hussain Sayed	PML	MS in Foreign Service	March 2012 to March 2018
2	Osman Saifullah Khan	PPP-P	Master in Business Administration	March 2012 to March 2018
3	Rahila Magsi	PML-N	Master in Medicine	March 2015 to March 2021

Source: Members Directory, 2015-2018 (Senate of Pakistan); and Scorecard on Senators' Performance, 2015-2016 (Lahore: PILDAT, 2016).

Annex VII

Eighteenth Constitutional Amendment of 2010: Extended Role of the Senate of Pakistan

Article No.	Before the Eighteenth Amendment	After the Eighteenth Amendment	Type of Power/Role
Art. 48. (Approval of referendum)	Previously, this Article provided discretionary power to the President to hold the referendum on matters of national importance.	The Prime Minister is given the powers to hold such referendum. However, a prior approval of the parliament in its joint sitting is required where the Senate is given the right to vote on proposal asking for a referendum.	Expanded Oversight Role
Art. 59. (Increase in membership)	Previously, the membership of the Senate 100 seats without the representation of the religious minorities in the Senate.	The number of seats in the Senate is increased from 100 to 104 to provide representation to the religious minorities of Pakistan. <i>Note:</i> After the merger of FATA under the Twenty-Sixth Constitutional Amendment, the seats of the Senate are reduced to 96 members.	Expanded representational scope
Art. 61. (Increase in working days)	Earlier, the working days of the Senate have been 90 days only.	The number of working days has been increased to 110 days. As the scope of or the items on the Federal Legislative List Part-II has been expanded, it required more days to deliberate upon the matters comes under the legislative jurisdiction of the Senate.	Expanded legislative role.
Arts. 70 and 71. (Legislative procedure)	Earlier, in case of disagreement on a legislative between the two house of the parliament was referred to a Mediation Committee, consisted of the members of the both houses, to develop a consensus on it.	Under the Eighteenth Amendment, a disagreement between the two houses needs to be decided in a joint sitting of the both houses where is it passed by the majority of the members present and voting. It provides equal legislative powers to the Senate on such bills or in cases of an inter-cameral legislative disagreements.	Expanded legislative role.
Art. 73. (Procedures for money bills)	Earlier the Senate's role to make recommendations to the money Bill including the Finance Bill has been 7 days.	Senate's role to make recommendations to the money Bill including the Finance Bill has been increased from 7 days to 14 days.	Expanded Oversight Role

Art. 89. (Approval of Presidential Ordinances)	Earlier, it was provided that the president cannot make or promulgate an ordinance when the National Assembly is in session.	Earlier, it is provided that the president cannot make or promulgate an ordinance when the Senate or the National Assembly is in session.	Expanded Oversight Role
Art. 91. (Accountability of the Cabinet)	The Cabinet together with the Ministers of State was collectively responsible to the National Assembly only.	The Cabinet together with the Ministers of State is made collectively responsible to both the Senate and the National Assembly.	Expanded Oversight Role
Art. 175-A Appointment of the SC Judges)	The president was authorized to appoint the Chief Justice (CJ) of the Supreme Court (SC) of Pakistan. Similarly, the president was given the power to appoint the other judges of the SC in consultation with the CJ.	It is 8-members Parliamentary Committees, consisting of equal membership of Senate and National Assembly, that approves the appointment of the judges of the SC.	Executive Powers/Role
Art. 213. Appointment of the CEC)	It was the discretion of the president to appoint the Chief Election Commissioner (CEC) of Pakistan.	The CEC is appointed by the 12-members Parliamentary Committees. It is required that 1/3 or 4 members of the Committee should be senators.	Executive Powers/Role
Art. 232. Proclamation of emergency)	Previously, Article 232 provided the proclamation of the emergency shall be approved by the joint sitting of the parliament. It meant that the decision of government of the day shall prevail as it is a government of a majority party in the Assembly.	The proclamation of such emergency required to be placed within the ten days of its proclamation before the both Houses, the Senate and the Assembly, of the parliament for its approval.	Expanded Oversight Role
Art. 233. Powers to suspend fundamental rights)	Earlier, suspension of the fundamental rights contained in Articles 15, 16, 17, 18, 19 and 24 suspended after the proclamation of emergency were placed before the joint sitting for approval.	Such suspension of the fundamental rights contained in Articles 15, 16, 17, 18, 19 and 24 needs to be placed before be placed before the Senate and the National Assembly separately for approval.	Expanded Oversight Role
Art. 234. (Proclamation of emergency in a province)	Earlier proclamation of emergency in case of failure of constitutional machinery in a province was required to be placed before a joint sitting of the parliament.	Proclamation of emergency in case of failure of constitutional machinery in a province is required to be placed before each house separately.	Expanded Oversight Role
Reports to be laid)	Under Art. 29, the annual report on the implementation of the Principles of the Policy,	The annual report on the implementation of the Principles of the Policy needs to be laid before	

Art. 29.	embedded in the Constitution, was to be laid before the National Assembly only.	each house separately.	Expanded Oversight Role
Art. 153.	Under Art. 153, the annual report on the implementation of recommendations of the Council of Common Interests was to be laid before the National Assembly only.	The annual report on the implementation of the recommendations of the Council of Common Interests needs to be laid before each house separately.	
Art. 156.	Under Art. 156, there was no specific forum to hold the National Economic Council accountable.	The National Economic Council is made responsible to the parliament and it is required to submit its annual progress report before each house separately.	
Art. 171.	Report of Auditor General of Pakistan relating to the Accounts of Federation was to be laid before the National Assembly only.	Report of Auditor General of Pakistan relating to the Accounts of Federation is required to be laid before the both houses separately.	
Inclusion of senators (PAC) Rule 172-F of the Senate's Rules of Business	Earlier, the membership of the PAC, a committee to examine the expenditures of the federal government and to oversee the implementation of federal grants, was consisted of the National Assembly only.	On 28 July 2016, the <i>Rules of Business in the Senate</i> were amended to include six senators to the Committee provided that one senator from each province, federal capital and FATA.	Expanded Oversight Role

Source: *Role and Powers of the Senate*, (Islamabad: The Senate of Pakistan, 2016); *The Constitution of Pakistan, 1973 as modified upto the May 31, 2018* (Islamabad: The National Assembly, 2018); *The Constitution (Eighteenth-Amendment) Act, 2010* ((Islamabad: The National Assembly, 2010); *Rules of the Procedure and Conduct of the Business in the Senate, 2012* (Islamabad: The Senate of Pakistan, 2012); *Rules of the Procedure and Conduct of the Business in the National Assembly* (Islamabad: The National Assembly, 2010).