



**The Procedure of Creation of New Provinces in Cooperative Federalism:
A Comparative Study of India and Pakistan**

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Abstract:

Both Pakistan and India are heterogeneous states in terms of religion, ethnicity, races, and languages. Federalism is believed to be the best solution for heterogeneous states with large populations. Federalism has remained the essential characteristic in the constitutions of both countries since 1947. Different component units form a federation, and the strength of component units varies from country to country. India increased the number of its component units, but Pakistan could not do so due to different factors. This study examines the formation of new component units in Pakistan and India. The comparative method is applied in this study. The researchers apply different theories to explain political phenomena, and this study utilizes the constructivist research paradigm. This study concludes that the unsettled grievances of a particular area for an extended period pave the way toward separatist tendencies. In Pakistan, the unequal distribution of infrastructure, health, education, and industry in different areas incites people. There are some supporters and opponents of creating new provinces in Pakistan. The politicians exploit the demand for the creation of new provinces in Pakistan for their political point scoring.

Keywords: Pakistan, India, federalism, new provinces, decentralization, cooperative federalism, dual federalism

INTRODUCTION

The division of powers and functions is the core principle in a federal state. There are also a few general characteristics of a federation, such as a rigid constitution, bicameral legislature, the supremacy of the constitution, written constitution, two levels of government, and the dual role of

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the superior court. History, political, and social conditions are imperative in framing a federal state's structure. Duchacek presented ten yardsticks of federalism to test states that declared or thought to be federal. He opined that we should show flexibility in defining federalism because each state has different circumstances. Political scientists have introduced different theories of federalism (Naseem & Mahmood, 2019).

Both Pakistan and India enjoy the status of heterogeneous societies, and according to political scientists, federalism is the best solution for heterogeneous societies and large populations. Federalism has remained the basic characteristic in the constitutions of both countries since 1947. Different component units form a federation, and the strength of component units varies from country to country. India increased the number of its component units (states and union territories). However, Pakistan was unable to do so due to different factors. Currently, there are 28 states and 8 Union territories in Indian Union. Ladakh and Jammu & Kashmir, the areas of the disputed Kashmir, were given the status of union territory in 2019. It was an illegal and immoral decision of the Indian government. Under the amended Articles 35 (A) and 370 of the Indian Constitution, the autonomy of the people of Kashmir was striped, and the region was divided into two Union Territories, Ladakh and Jammu & Kashmir (Naseer, 2023). Pakistan has four provinces: Punjab, Sindh, Baluchistan, and Khyber Pakhtunkhwa (KP).

The main research objectives of this study are: to trace the history of the creation of new component units in Pakistan and India; to trace the constitutional provisions for the creation of new component units; to trace the reasons for the creation of new component units in both countries and; to examine the support and opposition for the creation of new component units in both countries.

This study focuses on these research questions: What is the history of creating new component units in Pakistan and India? What constitutional provisions exist for creating new component units in both countries? Why are demands made to create new component units in both countries? Why is creating new component units supported or opposed in both countries?

LITERATURE REVIEW

Eminent scholars on federalism include Wheare (1964), Riker (1964), Watts (1966), Pal (1985), King (1982), Max (1986), Duchacek (1987), and Dosenrode (2010). The scholars mentioned examined different dimensions of federalism. Prominent research on federalism in Pakistan includes Sayeed (1988), Ahmad (1990), Waseem (1994), Shah (1994), Mehruddin (1996), Khan (2001), Kundi (2002), Cheema and Khan (2006), Nazir (2008), and Ali (2010). These works mainly focused on the structure, evolution, and problems of federalism in Pakistan. The 18th Amendment addressed 102 Articles of the 1973 Constitution, and it was examined by scholars such as Rabbani (2012), Adeney (2012), Faiz (2015), Naseem and Mahmood (2019), Rana (2020), Majeed, Qureshi and Qayum (2021). The focus of this research was the analysis of the 18th Amendment and its implications on federalism in Pakistan. The studies on the politics of new provinces in Pakistan include Javaid (2009), Feyyaz (2011), Ali, Musarrat and Azhar (2011), Asghar (2012), Zulfqar (2012), Ahmar (2013), Ansari (2013), Hafeez (2014), Hussain (2014), Soherwordi and Khattak (2014), Sandhu (2015), Mushtaq and Shaheen (2017), Latif (2017), Javaid, (2018), Khosa (2019), Khan, Shaheen, & Ahmad (2019), Asif, Naazer, & Mahmood (2019), Khalid (2020), Shaheen,

Mahmood, & Naazer (2020; 2021; 2022), and Ahmad and Sabir (2021). These studies examined the constitutional basis, prospects, and problems of creating new provinces in Pakistan.

The prominent studies on federalism in India include Dua and Singh (2003), Ziblatt (2004), Sarangi and Pai (2009), Dosenrode (2010), Menon (2014), Lobo, Sahu and Shah (2014), Vaddiraju (2017), Jain (2017), Panikkar and Haksar (2019), Findi (2020), Srivastava (2021), Singh (2022) and Bhattacharyya (2023). The mentioned studies focused on meaning, characteristics, problems, cooperative federalism, federalism, local government, and the emerging trends of federalism in India. Sharma, Bhattacharyya, and Adeney focused on the comparative study of federalism. Katharine Adeney wrote her Ph.D. thesis, "Federal Formation and Consociational Stabilization: The Politics of National Identity Articulation and Ethnic Conflict Regulation in India and Pakistan" (2003). She examined religious and linguistic identities by the federal institutions in Pakistan and India. Sharma made a comparative analysis of emergency powers in Pakistan and India in his study "Comparative Federalism with Reference to Constitutional Machinery Failure (Emergency) in India and Pakistan" (2017). The researcher concluded that the center of both countries enjoys extensive powers to impose emergencies in the provinces. Bhattacharyya studied federalism in five Asian countries in his book "Federalism in Asia: India, Pakistan, Malaysia, Nepal, and Myanmar." The author highlighted the failures and successes of federalism in the mentioned countries (Bhattacharyya, 2021). Literature on comparative analysis of provinces in Pakistan and India, and this study is significant as it fills the gap.

THEORETICAL FRAMEWORK

The political scientists presented different theories of federalism. The advocates of the liberal school of thought include Spinelli, Elazar, Wheare, and Burgees. The mentioned scholars opined that a federation results from a desire to "be under a single independent government for some purposes at any rate" (Wheare, 1964). The principle of dual sovereignty is the fundamental concept of the theory of dual federalism. The said theory relies on the principle that the government and the governments of the federating units carry out their functions in an independent atmosphere, and both are considered co-equals. The theory of dual federalism faced criticism from scholars such as Grodzins, Clark, Elazar, etc., who are the proponents of the theory of cooperative federalism. The theory of cooperative federalism believes in the joint responsibilities of the governments of the federating units and the federal government. It desires cooperation among governmental institutions (Naseem & Mahmood, 2019).

Scholars agree that the Greek philosopher Aristotle was the pioneer of comparative methods in the subject of political science. Political science researchers introduced new research methods with time. However, the comparative method did not lose importance in the present age. De Tocqueville, Bagehot, Dicey, Wilson, Bryce, and Lowell belong to the comparative school. Lipson concluded that "... the comparative method enjoys both the antiquity and respectability of an Aristotelian precedent" (Lipson, 1957). The comparative method is applied in this study.

RESEARCH METHODOLOGY

The researchers apply different theories to explain political phenomena. Under the constructivist philosophical paradigm, different research methods include "narrative study, case study,

descriptive study, phenomenological study, grounded theory, and ethnographic study” (Adom et al., 2016). This study utilizes the constructivist paradigm of research.

HISTORICAL PERSPECTIVE OF THE CREATION OF NEW PROVINCES IN PAKISTAN

There is diversification in Pakistani society, and federalism is the most suitable system for the survival and integrity of the state. Muhammad Ali Jinnah, the founder of Pakistan, viewed Pakistan as a federal state. The Government of India Act of 1935 was ratified as an interim constitution of Pakistan. The federation comprised the provinces of Bengal (East Pakistan), Balochistan, North-West Frontier Province (NWFP), Sindh, and Punjab. In 1955, the four provinces of the West Wing were amalgamated into one province (West Pakistan). Pakistan had two provinces, East Pakistan and West Pakistan (one unit), from 1955 to 1970 (Ali, 1996). On 25th March 1969, Yahya Khan imposed martial law and abrogated the Constitution of 1962. Yahya introduced the Legal Framework Order (LFO) and reversed one unit on the first of July 1970 (Rizvi, 2010). Pakistan's first general elections were held in 1970, and regional politics were at their peak. Political crisis after the elections and the 1965 Pakistan-India war resulted in the separation of East Pakistan on 16th December 1971. Yahya Khan gave their resignation on December 20, 1971, and handed over power to Zulfikar Ali Bhutto.

The Constitution of 1973 was ratified on August 14, 1973, and Article 1 illustrates the state territory. It states that the territories of Pakistan shall comprise (a) The Provinces of Balochistan, Khyber Pakhtunkhwa, Punjab, and Sindh, (b) The Islamabad Capital Territory, from now on referred to as the Federal Capital, (c) such States and territories as are or may be included in Pakistan, whether by accession or otherwise. Article 1 states that Parliament may by law admit new states or areas into the federation on such terms and conditions as it thinks fit (Article 1 of the Constitution of Pakistan). Under Article 239, a difficult mechanism has been introduced to create new provinces. Article 239 states, “A Bill to amend the Constitution which would have the effect of altering the limits of a Province shall not be presented to the President for assent unless it has been passed by the Provincial Assembly of that Province by the votes of not less than two-thirds of its total membership” (The Constitution of the Islamic Republic of Pakistan, 1973). In Pakistan, demand for creating the following new provinces is made.

South Punjab

The primary reason for the demand in South Punjab is socio-economic factors. The Seraiki-speaking population is scattered over 23 districts. However, creating a new province does not guarantee the region's backwardness. South Punjab's economy depends on agriculture and lacks urban and industrial development. The Bahawalpur division is the largest division of Punjab province, and its area is 18,000 square miles (Zulfqar, 2012; Asif et al., 2020).

Hazara

The Hazara Division of KP comprises six districts: Haripur, Abbottabad, Mansehra, Battagram, Kohistan, and Torghrah. The division's population is heterogeneous regarding language, culture, and ethnicity. Supporters claim that creating a new province will be a source of prosperity in the region because the area has abundant natural and mineral resources. Hydroelectric projects and tourism will also contribute to the region's development (Zulfqar, 2012).

Bahawalpur

In 1955, the State of Bahawalpur was merged into one-unit system. General Yahya Khan reversed one unit in 1970, and the state was merged into the Punjab province. The supporters of Bahawalpur province argue that Bahawalpur was merged into Punjab province without the consultation of the people. They demand that Bahawalpur should be declared a separate province (Butt & Ahmad, 2016). In 2009, Muhammad Ali Durrani led the movement to restore Bahawalpur province. The 18th Amendment was ratified in the Constitution of 1973, and the Parliament reversed the amendment introduced by the former dictators. Durrani demanded that the decision of former military dictator Yahya Khan to declare Bahawalpur as part of the Punjab province should be reversed by the Parliament of Pakistan (Ahmad et al., 2020).

PROSPECTS AND CHALLENGES FOR CREATING NEW PROVINCES IN PAKISTAN

Constitutional Provisions

Under the Constitution of Pakistan, creating new provinces is a complex task. Article 239 describes the procedure for creating new provinces. The amendment bill needs a two-thirds majority of both Houses of Parliament. Under clause (4) of Article 239, a two-third majority of the respective provinces are required to change the status. In other words, any demarcation of provincial boundaries cannot be carried out without the approval of the respective provincial assembly (clause 4 of Article 239).

Financial

Pakistan is a third-world country with an abject economy, and creating new provinces will undoubtedly add to the financial burden. The supporters of new provinces argue that the new provincial governments will meet the expenditures through the allocated funds from the center. The creation of new provinces will open avenues for development in neglected areas. The opponents argue that the creation of new provinces will add a burden upon the taxpayers (Zulfqar, 2012).

Rise of Ethnic and Linguistic Identities

Provinces of Pakistan have strong ethnic identities. Under the 18th Amendment, KP was renamed on an ethnic basis, and the Hazara community of KP strongly rebuked the decision. In the past, the Mohajir Province movement was initiated in Karachi and Hyderabad. On the other side, the 'Sindh Lovers Rally' was held on May 22, 2012, against the division of Sindh. On May 30, 2012, a 'Sindh Solidarity Conference' was held. The representatives of Pakistan's mainstream and nationalist political parties attended the conference and passed a resolution against the division of Sindh province. The demand for new provinces on an ethnic and linguistic basis will raise ethnic clashes in the country (Zulfqar, 2012).

There are few supporters and opponents of creating new provinces in Pakistan. The supporters argue that the doors of development will be opened in the neglected areas by establishing new provinces. The new provinces will also make policies to uplift the economic conditions of the people. A major producer of cotton in Pakistan is the South Punjab. After gaining provincial status, the new province's administration will initiate new agricultural policies and establish industrial zones. The province of KP enjoys water resources and can introduce new hydroelectric projects in

new provinces. The opponents believe that creating new provinces will increase non-development expenditures and financially burden the country's economy. They also have apprehensions that creating new provinces will split society on an ethnic basis. It is suggested that the new provinces should be established administratively (Javaid, 2018). The 18th Amendment ensured provincial autonomy. The demand for new provinces is louder in the post-18th Amendment scenario. The politicians used the card of creating new provinces for their political gains. However, vicious conflicts were seen between treasury benches and political ethno-nationalist movements after the 2013 and 2018 general elections (Rameez & Sabir, 2021).

The National Assembly of Pakistan passed a resolution in 2012 to endorse the creation of a new province in Punjab. A commission was also instituted to prepare and submit the feasibility report of the plan. Under the resolution, the Provincial Assembly of Punjab was asked to take essential steps. On May 9, 2012, the Punjab Assembly passed two resolutions and proposed the creation of two new provinces, namely, the South Punjab province and the restoration of Bahawalpur province (Shaheen, Mahmood & Naazer, 2020). The work on creating new provinces was initiated, but soon, the ruling elite expertly used delay tactics. There was an impasse due to the refusal of the Punjab Assembly to accept the commission that the National Assembly instituted. On January 28, 2013, the commission submitted its report to the Parliament (Javaid, 2018). The significant factors behind the demand for new provinces in Pakistan include;

- Cultural factors (language and ethnicity)
- Administrative factors (population and geographic factors)
- Political factors (bad governance and political rhetoric)
- Economic factors (unequal distribution of resources and inadequate budget allocation) (Rameez & Sabir, 2021)

Pakistan's political history manifests that different communities demand the establishment of new provinces based on representation and resource allocation. Under the 18th Amendment, the previously known NWFP was renamed Khyber Pakhtunkhwa (KP). This decision recognized the Pushtun community. Some other KP communities, such as Hindku-speaking, Hazara, and Chitrali communities, opposed the decision. The Hazara community initiated the demand for Hazara province (Javaid, 2018).

HISTORICAL PERSPECTIVE OF THE CREATION OF NEW PROVINCES IN INDIA

The Indian Constitution was ratified on 26th January 1950. It is the longest constitution in the World, with 395 Articles. Under Article 1, India is a 'Union of States'. The states and the territories are mentioned in the First Schedule of the Constitution (Raghuvansh, 2016). The Indian Constitution Drafting Committee recommended that India will be a federal state and will be called a Union. Ambedkar, a committee member, highlighted the importance of the word "Union" instead of "Federation" in the Constituent Assembly in 1948. He opined, "What is important is that the use of the word 'Union' is deliberate, though the country and the people may be divided into different States for convenience of administration, the country is one integral whole, its people living under a single imperium derived from a single source" (Raju, 2017).

Article 3 of the Indian Constitution addresses the Formation of new States and the alteration of areas, boundaries, or names of existing States. It says Parliament may by law a) form a new State by

separation of territory from any State or by uniting two or more States or parts of States or by uniting any territory to a part of any State; b) increase the area of any State; c) diminish the area of any State; d) alter the boundaries of any State; e) alter the name of any State; Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired (Explanation I). In this article, in clauses (a) to (e), the State includes a Union territory, but in the proviso, the State does not include a Union territory (Explanation II). The power conferred on Parliament by clause (a) includes the power to form a new State or Union territory by uniting a part of any State or Union territory to any other State or Union territory (The Constitution of India, Article 3).

Table 1: Indian Union Territories and Capitals

STATE	YEAR	STATE	YEAR
West Bengal	(1947)	Haryana	(1966)
Rajasthan	(1949)	Punjab	(1966)
Uttar Pradesh	(1950)	Himachal Pradesh	(1971)
Bihar	(1950)	Manipur	(1972)
Assam	(1950)	Meghalaya	(1972)
Odisha	(1950)	Tripura	(1972)
Tamil Nadu	(1950)	Sikkim	(1975)
Andhra Pradesh	(1953)	Goa	(1987)
Madhya Pradesh	(1956)	Arunachal Pradesh	(1987)
Kerala	(1956)	Mizoram	(1987)
Karnataka	(1956)	Chhattisgarh	(2000)
Maharashtra	(1960)	Jharkhand	(2000)
Gujarat	(1960)	Uttarakhand	(2000)
Nagaland	(1963)	Telangana	(2014)

Source: <https://www.jagranjosh.com/general-knowledge/history-and-date-of-formation-of-indian-states-since-1947-1565097028-1>; <https://www.careerpower.in/states-and-capitals-of-india.html>

Table 2: Name of Indian Union Territories

Name of Indian Union Territories	Year
Puducherry	1954
Andaman and Nicobar Islands	1956
Delhi	1956
Lakshadweep	1956
Dadra & Nagar Haveli and Daman & Diu	1961
Chandigarh 1966	1966
Jammu and Kashmir (Illegal and Immoral)	2019
Ladakh (Illegal and Immoral)	2019

Source <https://www.careerpower.in/states-and-capitals-of-india.html>

Formation of New States in India Since 1947

In the early years, 'identity' remained a significant factor behind India's demand for new states. In recent years, regional development has been a key factor in the demand for new states. In other words, socio-cultural aspects and economic and political opportunities are the central focus. Promoting cultural homogeneity and better federal governance in all the Indian states were the primary goals behind forming Indian polity. The federal structure of India has been facing challenges in recent history due to unequal development between the states and a lack of socio-economic and political opportunities. The issue resulted in regional political parties and groups forming to voice their opinions against bigotry (Naik & Kaumar, 2016).

Numerous structural changes were introduced, and the Union of States was redesigned over the last seven decades. Few states were placed into the category of Union Territories, and few new states were established due to different reasons, such as language, administrative betterment, and economic well-being. Changes were made in the names and territories of the states, and most of them were transformed (Raju, 2017).

PATTERNS FOR THE FORMATION OF NEW INDIAN STATES

The history of the creation of new states in India reveals that new Indian states were formed due to the following patterns.

Language

The people have an emotional attachment to their language. In Andhra's case, the Telugu people showed violent behavior and demanded the establishment of a separate state based on the Telugu language. Andhra people promoted the concept of "Andhra Jhati" (Andhra Community) during the struggle for a separate Andhra state. Ultimately, Andhra was given the status of a separate state, and the other communities began to demand the establishment of states based on their native languages. As a result, the States Reorganization Act of 1956 suggested the reorganization of states such as the state of Andhra Pradesh. On 1st November 1956, the mentioned state was first established on a language base with the merging of Telugu-speaking people of Hyderabad state. A few other states were established on the same base, such as Maharashtra and Gujarat in 1960 and Punjab and Haryana in 1966. In contrast, Nagaland was established in 1963 on a tribal identity base. Language was the dominant factor in establishing states in India in the 1950s and 1960s (Raju, 2017).

Tribal Ethnicity

Tribal ethnicity was the leading factor in establishing states in Northeast India in the 1970s and 1980s; the Indian Parliament North-Eastern States Reorganization Act, 1971. Most Indian states during the 1970s and 1980s were established on a tribal ethnicity basis. The states established on this pattern include Manipur, Tripura, and Meghalaya in 1972 and Mizoram and Arunachal Pradesh in 1986 (Raju, 2017).

Economic Backwardness and Regional Deprivation

The pattern of economic backwardness and regional deprivation were significant factors in the creation of new states. States such as Chhattisgarh, Uttarakhand, and Jharkhand were created due

to the aforementioned pattern. These states faced problems such as economic backwardness, regional exploitation, and injustice. Chhattisgarh was established on a regional deprivation base, Jharkhand on a tribal ethnicity base, and Uttarakhand on an ecological base (Raju, 2017).

Demerger or Bifurcation

Telangana was part of the state of Andhra Pradesh and was given the status of a separate state on June 2, 2014. Historic deprivation, negligence, and self-rule paved the way for the creation of the state of Telangana. Tribal identity and language were not the causes for the creation of the state mentioned. Demerger was the case for the formation of Telangana state. About 90% of marginalized sections of society live in the Telangana region. These marginalized sections actively participated in the movement to form Telangana as a separate state. The people of Telangana realized that their development would not be possible in the big state of Andhra Pradesh (Raju, 2017). It was a democratic movement against the monopoly of political dictatorship. The Telangana people showed enthusiasm during the movement (Bhakta, 2020).

CONCLUSION

India and Pakistan gained independence from British rule in August 1947. India is a larger state in terms of population and size. Pakistan and India are federal states due to their large population and heterogeneous nature. There are some supporters and opponents of creating new provinces in Pakistan. The supporters argue that the doors of development will be opened in the neglected areas by establishing new provinces. The opponents believe that creating new provinces will increase non-development expenditures and financially burden the country's economy. They also have apprehensions that the creation of new provinces will divide the society on an ethnic basis.

In the context of Pakistan, political parties and politicians use the creation of new provinces as a political card. The political parties desire to attain the attraction of the citizens to fulfill their political agenda. Provincial governments often fail to address the fundamental issues of the peripheries, which lead to inequalities and an increasing sense of deprivation. The opposing factions of society often claim that creating new provinces does not guarantee solving public problems and may lead to new problems.

However, the study's findings suggest that creating new provinces based on ethnic, linguistic, and administrative bases is needed to solve the problems and create harmony among the Pakistani community. Moreover, the need of the hour is to ensure provincial autonomy, which has been ensured under the 18th Amendment. Seventeen federal ministries were devolved into the provinces, and the former Current Legislative List was deleted from the 1973 Constitution under the amendment. Under amended Article 140, local government is a provincial subject, and the centre must devolve political, administrative, and fiscal powers to the provinces. Unfortunately, the provinces could not establish a strong local government in the post-18th Amendment scenario. The tendency to centralize power should be discouraged, and provincial autonomy should be ensured. It will be a good sign of the smooth working of the Pakistani federation.

The people's problems can be solved, and the sense of deprivation can be solved through the devolution of power especially creation of new provinces, provision of social security, easy access to justice, prioritizing the underdeveloped and neglected areas, and establishing a strong local

government. There must be supremacy in the Constitution of 1973, and all the stakeholders must play their constitutional role. There is no doubt that creating new provinces is a delicate matter, and it cannot be taken in a hurry. However, all the stakeholders must be taken on board as a priority for strengthening the Pakistani federation by creating new provinces and empowering the local government system with constitutional safeguards. For this purpose, the constitutional requirement for creation of new provinces must be made easy and simple as is the case in India.

Indian history reveals that the states were formed due to four main factors: language, tribal ethnicity, economic backwardness, regional deprivation, and demerger due to historical deprivation, negligence, and self-rule (formation of Telangana state in 2014). There is also opposition to the creation of new states in India. It is based on the perception that creation of new states will intensify the division and chaos in the country, and the demand for new states will not stop. National integrity and harmony are undermined under the shadow of regionalism. However, the supporters of creation of new states opine that it has helped India to overcome separatist tendencies and fostered national integration.

The creation of new provinces is the need of hour and all stake holders including major political parties and their leaders must build a consensus on it. It will help address various problems such as economic disparities among various provinces and regions, provincialism, anti-Punjab rhetoric in the smaller provinces, separatism, and sense of deprivation among the minority groups within provinces. It will ensure good governance, efficient administration, just and equitable distribution of resources, and foster national integration and unity. New provinces can be created keeping in view multiple factors such as geographical proximity, socio-cultural affinities of the people, and administrative and economic aspects. A broad-based and high powered commission be made to suggest creation of new provinces and demarcation of their boundaries. The constitutional provision regarding creation of new provinces must be amended and made simple so that democratic demand of the people from different regions on this account be met without too much difficulty.

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