

Provincial Autonomy under the 18th Amendment in the 1973 Constitution of Pakistan

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Abstract

The 18th amendment is a landmark achievement in the history of Pakistan, representing a major shift towards greater provincial autonomy and a stronger parliamentary system. The Eighteenth Amendment, which had a significant impact on Pakistan's constitutional history, was a big step towards giving the provinces full legislative, administrative, and financial autonomy. The amendment has enhanced the legislative authority of the provincial assembly on economic issues, including taxation and foreign borrowing. It has also given provinces ownership and participation in the administration of natural resources, in addition to policymaking. The rights of the nation are effectively protected by Pakistan's Eighteenth Amendment, which also grants sovereignty to the provinces. The goal of the study is to analyze the reasons behind the important amendments made to Pakistan's 1973 constitution (18th Amendment) in 2010, which had a significant impact on provincial autonomy in the country.

Keywords: Devolution, Autonomy, Provincial autonomy, Concurrent list, Constitution.

Introduction

Pakistan has federating regions and is a federal parliamentary country. Pakistan's first constitution was adopted by the Constituent Assembly in 1956. Martial law was imposed in 1958 after the constitution was revoked. A new constitution was adopted in 1962. The National Assembly approved Pakistan's third constitution (after the 1935 legislation) in April 1973; it was suspended in 1977. A freshly elected National Assembly revised the 1973 constitution by October 1985. Pakistan's 1973 constitution acknowledges and strikes a balance between the federation's power and the provinces' autonomy. The 1973 constitution of Pakistan has undergone numerous modifications since it came into effect. In a span of four years, six modifications were even made by the parliament that formed it. The democratic governments periodically introduced the remaining modifications, all the way up to the seventeenth. Between the victorious party in the 2002 general elections and the military administration of General Pervez Musharraf, negotiations led to an agreement to implement the 17th Constitutional Amendment. Without any doubt, a significant effort has been made to resolve numerous difficulties through the Eighteenth

Amendment. The government is pleased with itself for achieving another victory with its majority approval. As the head of the Parliamentary Committee on Constitutional Reforms (PCCR), Mian Raza Rabbani signed the document; it appeared like history has just been made. Subsequently was sometimes referred to as the best constitutional package after the constitution of 1973 because it had unanimous support from Parliament and was quite comparable to the 1973 constitution's original text (Abbasi, 2010).

The Pakistani Constitution's 18th Amendment, which was approved during the month of April 2010, has certainly been the most important and has had the greatest impact. Thus, the constitution restored the parliamentary nature of the constitution, changes the dynamic within the legislature and judiciary by recommending legislative oversight of the top-level tribunal nominations, and delegated several important responsibilities to provincial governments. The 18th Amendment to the Constitution of 1973 greatly enhanced the legislative authority of the provinces through the deletion of concurrent list, which previously permitted both central and provincial legislative bodies to pass laws based on that list laid out over there. As a result of the concurrent legislative list's removal, there is now only one legislative list in the constitution that can be used to pass laws; any issues not covered by either of these two lists are now governed by the provinces' legislative authority. A key demand of the entire spectrum of political leadership was the repeal of the 17th constitutional amendment, the restoration of the 1973 constitution's basic form, and the consideration of provincial autonomy in light of the Charter of Democracy. One of the remarkable results of the 18th Amendment is that the Prime Minister now has more authority than he did under the 1973 Constitution and that the President's powers have been reduced. Through later constitutional amendments made under military leaders Zia-ul-Haq and Musharraf, the president was granted additional powers that have since been abolished. The President's executive powers would be exercised by the federal government in the lieu of the President, who would no longer be in possession of such powers. The Prime Minister will act the federal government's Chief Executive, with the federal minister serving as its governing body. The Prime Minister cannot be appointed by the President or invited to run for office. On the other hand, the National Assembly would use a simple majority vote to choose the Prime Minister.

Significant Changes of 18th Constitutional Amendment in 1973 constitution of Pakistan

The Amendment was approved by the Parliament with no opposition. On April 20, 2010, it was announced in Pakistan's official Gazette. The 1973 Constitution underwent 36% changes as a result of the revision, with 102 out of the 280 articles being changed, added, substituted, or removed. In essence, the state's entire structural framework was redefined. The Amendment is credited with bringing regarding a paradigm change contrary to a federal system that was extremely centralized to one that was decentralized and had resourceful provinces.

The Eighteenth Amendment to the 1973 Constitution combines nearly 100 Amendments into one and has an impact on 83 Articles, including:

1,6,10,17,19,25,27,29,38,41,46,48,51,58,62,63,70,71,73,75,89,90,91,92,99,100,101,104,105,112,116,122,129,130,131,132,139,140,142,143,144,147,149,153,154,155,156,157,160,167,168,170,171,172,175,177,193,194,198,199,200,203,209,213,215,216,218,219,221,224,226,228,232,233,234,242,243,246,260,267,268,269

,270. It was the first time in the history of Pakistan that a president voluntarily signed a document that restricted their power. As a result of the amendment's requirement that Supreme Court nominees be chosen by judicial commissions, judicial independence has also been boosted. Additionally, the President won't choose the Chief Elections Commissioner and won't arbitrarily proclaim a state of immediate emergency in the provinces. Some significant changes of 18th Constitutional Amendment are given below:

Dealing with Treason

For anyone found guilty of high treason, Article 6 of the 1973 Constitution specifies the penalty. Due to the 18th Amendment, this article has undergone significant alteration. In accordance with a recently inserted provision 6(2A), no court, even if it is the Supreme Court or a High Court, could uphold the high treason stated in Article 6. In every instance of a military takeover in Pakistan, the higher judiciary has given its approval for the constitution to be suspended or repealed, military laws to be imposed, and the post-martial law assembly to award compensation. It's possible that the recently inserted 6th Article clause is going to act as a disincentive for the courts in the future.

Limits on Presidential powers

The contentious constitutional provision known as Article 58(2)(b) is one of the greatest achievement of 18th Amendment, which was originally added by Gen. Zia ul Haq in 1985 and reinstated by Gen. Pervez Musharraf in 2003, permitted the President to dissolve Parliament, has been eliminated. As a result of the deletion of 58 (2[b]) and amendment of 58 (2[b]), the National Assembly can no longer be dissolved without the Prime Minister's advice or in the event that a vote of no confidence has been taken against a Prime Minister and no other Assembly participant commands a majority of the participants as determined in a session that has been called for that purpose. The Federal Government would act in place of the President to exercise the federation's executive authority instead of a President holding such authority. The Prime Minister, who will serve as the Federal Government's Chief Executive, will be joined by the Federal Minister. Nominating or inviting the Prime Minister to serve in office is prohibited by the President. The National Assembly would instead pick the Prime Minister with a simple majority. Likewise, the change to Article 232 limits the power of the president to proclaim emergency conditions in a province. The revised clause states that an emergency needs to be declared if the relevant provincial assembly has approved an ordinance with that scope. The proclamation must be submitted to Parliament within ten days of the President's discretionary action for approval by each House. If such approval is not granted, the official proclamation will expire after two months.

Nomination of Judges

The aforementioned 18th Amendment's prevail in regard to Supreme Court and High Court nominees was the most contentious because, as a result of several decisions made over the previous 20 years, the Supreme Court had come to assume such a task at the expense of all other institutions. The modification made to Article 175 was one of the key alterations introduced by the 18th Constitutional Amendment. Formerly, clause (1) of that article only listed the Supreme Court of Pakistan and all four provincial high courts. A new addition is the Islamabad High Court.

Similar to the previous procedure, a Judicial Commission and a Parliamentary Committee will now serve the same purpose as the President in appointing judges to the Supreme Court and High Courts after consulting with the Chief Justice. The Judicial Commission of Pakistan was established by an innovative Article (175A) of the Constitution, which would be used to select judges for the Federal Shariah Court, the High Courts, and the Supreme Court of Pakistan (Rana, 2020). The seven-member commission in charge of selecting justices for the Supreme Court will be presided over by the Chief Justice of Pakistan. Two of the court's senior-most judges, an ex-chief justice of the Supreme Court, a member of the Federal Legislature, the Pakistani attorney general, and a renowned Supreme Court lawyer chosen by the Pakistan Bar Council will also be included in the panel. The other four members of the aforementioned panel for the High Courts are the Chief Judge of the respective High Court, a Senior Judge of the relevant High Court, the Provincial Law Minister, and an experienced lawyer to be nominated by the Provincial Bar Council.

Both the Chief Judge of the Federal Shariah Court and the senior-most Shariah Court judge have been chosen as members of the Commission for Nominations in the Shariah Court. Because of this, the executive, judicial, and even legislative departments were all represented on the Commission in a variety of ways. The Chief Justice of Pakistan shall be appointed by the President in accordance with this Article, but for all other vacancies in the superior judiciary, the Commission must submit nominations to a mandatory eight-member parliamentary committee (the Head of the House and the Opposition Leader should submit a nomination over two members from each House of Parliament). The legislative committee has 14 days to decide whether to accept the commission's candidate for a position with a simple majority vote or reject it with a three-fourths vote of all the members.

Empowering the Parliament, Senate

The president's authority had increased greatly as a result of the 17th Amendment, which also gave him numerous significant new responsibilities. The 18th Amendment completely altered the 17th and revoked the various 2002 legal decrees; the competency of the head of state was also diminished in a number of other ways. For instance, before reform, the President was given specific instructions from the Federation's executive, who could then exercise direct control over him. The Amendment clause emphasizes that the PM is the most crucial manager of the Federation and that the federal authorities must use the federations' executive authority. The regulations must be implemented by the central authority, not the president. It was abolished for the head of state to have the discretion to name a member of the National Assembly as prime minister if they were likely to obtain the support of the majority of members of the central legislature. The legislature must now convene for twenty days following the elections in order to choose a leader of the government (Prime Minister), who then requests the head of state's (President) acceptance of the position.

Articles 48, 75, 153, 156, and 242 have been altered to increase the Prime Minister's authority. Following the change, the system now exhibits a totally parliamentary nature. The Prime Minister will advise on all significant appointments. The elected officials will need to demonstrate their

political acumen. The institutions must operate within the restrictions imposed by the 18th Amendment. The decision to organize a referendum that the country's prime minister has suggested rests with a duly convened joint session of Parliament. Before the adoption of the 18th Amendment, Parliament just described how a referendum would be conducted and how its results would be gathered and combined. Additionally, the legislative process now solely involves the Parliament. In this sense, the government's supervision of the bill's progress through a committee of mediators is finished. Currently, the system only gives each chamber of Parliament sufficient authority to recognize or deny laws or regulations. Additionally, the presidential time period has been reduced from 30 to 10 days for examining the statute passed by Parliament. The Senate's influence over numerous issues has increased, in particular. Due to the fact that the Senate speaks for all of the federation's units, as its role is expanded, all of the units' voices and aspirations will have a better opportunity of being realized. Despite the Senate's working days being increased from 90 to 110, the President is still required to present a report on the principles of policy's adherence and implementation to both the Senate and the National Assembly. As a result, the President's report on the principles of policy would now be open for discussion in both houses of parliament. Similar to how it answers to the National Assembly, the Cabinet will jointly answer to the Senate. A fourteen-day study period has been added to the Senate's original seven-day study session. Due to this, Senate dialogue will increase in volume and quality.

Changing the name of NWFP

The NWFP will now be known as Khyber-Pakhtunkhwa. After much resistance, the PML-N finally consented to the name change. Similar changes were made to the spellings of the names of two more provinces, "Baluchistan" to "Baluchestan" and "Sind" to "Sindh" respectively. No details regarding the significance of those spelling changes were made public. Members of the Parliamentary Committee on Constitutional Reforms (PCCR) who are Sindhi and Balochi, however, believe that the former spellings are a relic of British Imperialism (Adeney, 2012). Despite a major expansion of the provinces' authority as a result of the Amendment, local governments were still subject to other governing bodies under each province's territory. The 18th Amendment included Article 140A, which mandated the passage of legislation by each province for creating a system for local government and granting nominated members of local government's authority regarding political, administrative, and fiscal affairs.

Fundamental Rights and Principle of Policy

The chapters on fundamental rights and policy principles have received several beneficial updates. Fresh articles 10A and 19A were recently added to the constitutional document in order to ensure that every Pakistani citizen enjoys a right to fair trials and to receive knowledge about all subjects of public significance. A right to education is a noteworthy addition to the basic rights (Article 25A). Education is not a right that can be enforced in and of itself, despite the fact that both the provincial and federal governments have made it a priority to give it, especially to those who are poor and downtrodden (Ahmed, 2020). Each child would receive a free education till the age of sixteen under article 25A. The rate of literacy would increase as a result of this. The 18th Amendment has a significant impact on higher education. The federating units are in charge of

granting the universities autonomy in the manner of Cambridge and Oxford and allowing them to run them independently. The advancement of this fundamental right has been supported by provincial laws. A law requiring free public education for children in each of the four provinces has been approved by their respective Provincial Parliament. The report on the Principles of Policy will consequently be discussed in the Senate according to Article 29. Prior to this, the National Assembly had been the only venue for discussion. Article 38, belonging to the Principles of Policy, has new language that eliminates disparities that affect how the provinces share various services (Ahmed, & Baloch 2019).

Strengthening the federation and provinces

Since Pakistan's creation in August 1947, the balance of power between the state and its various components has been one of the most divisive and recurrent issues in that country. Even though promises of regional autonomy were a crucial part of the mandate for Pakistan, the founding leadership of the newly created nation remained leery of local allegiances after independence. Punjab's political hegemony in Pakistan after Bangladesh has alarmed the country's less populous regions. The new Constitution required federal, provincial, and concurrent legislative lists, but the policies for provincial administration revealed that the federal system tended to be centralized. Punjab was the only federating unit that did not view the constitutional system as a failure. The military government of Pakistan's centralizing tendencies further insured that the 1973 promise of devolution would not be realized. The 47 subjects on which the Federal Parliament and Provincial Assemblies may simultaneously pass laws were removed, giving the provinces control over these issues. However, certain items were added by raising the number of articles from 8 to 18 in Part II of the Federal Legislative List. The Amendment granted the provinces authority over rules governing forty different fields, including those pertaining to marriage, contracts, infectious and transmissible diseases, employment, educational programmes, and the destruction of the environment. It also changed how resources were allocated so that the provinces could shoulder the cost of these newly transferred responsibilities, and it modified the method for distributing interprovincial income in order to ensure that it generally considers a province's impoverishment (or backwardness) levels rather than the density of the population (Begum, Ashraf & Ishaque, 2018).

The provinces now have greater authority and are able to pass laws on a variety of issues as a result of the revision to Article 142. One of the most important organizations for coordinating federal matters is the Council of Common Interest. In order to accommodate an equal number of Chief Ministers, Article 153, addressing the Council of Common Interest, was modified to allow the federal government to nominate three rather than four members. To ensure the peaceful resolution of conflicts or differences among the provinces, the Council of Common Interest and the scope of its authority have been strengthened. In principle, CCI is strong, but in practice, it is not. The relationships between the two or more parties engaged in the disagreement sometimes influence how conflicts are resolved procedurally. There aren't many times that CCI gets together. Thus, CCI is ineffective as a system for resolving disputes within organizations. The CCI report

will be presented to both houses of parliament on a regular basis under the 18th Amendment (Waseem, 2010).

In accordance with Article 154, the Council is required to keep a permanent secretariat, and in recognition of the significance of such a significant entity, it is required to meet at least once every ninety days. Provinces can, however, ask for further sessions if the situation is urgent. The National Economic Council was provided with jurisdiction over both chambers of Parliament by the inclusion of an additional provision to Article 156 (Burki, 2010). Additionally, the National Finance Commission has been reactivated in accordance with the 18th Amendment. Both the federal and provincial finance ministers are required by Article 160(3) to supervise its execution and provide a report for the relevant legislative authority. In the post-18th Amendment context, the provinces play a crucial role in determining how the Pakistani federation operates. The aforementioned legislation guarantees actual provincial autonomy and will undoubtedly enhance Pakistan's federation. Under the modified Article 172, the federal government and the relevant provincial government jointly and equally own the natural resources of a province.

Limits on Cabinet Members

There has been universal praise for the choice to set a limit on the number of cabinet members. Even though the Amendment has rendered it harder for the parties who are in power to persuade opponents into their camp by offering them ministries, this will lower the burden on the budget by allowing a substantial number of government ministers who have positions in the cabinet to exclude their personal expenses. The amendment sets a cap on the number of advisers to the Chief Ministers at five and also restricts the size of the cabinet to 11% of the entire number of lawmakers (Gaho & Shah, 2022).

Strengthening of Election Commission

The Election Commission has been aimed at strengthening and becoming independent. The number of commissioners has been set at five, while the Chief Election Commissioner's (CEC) term has been extended from three to five years. Before the Constitutional Amendment, the President had the right to select the CEC, but now there is a certain procedure that should be followed. The process for choosing the Chief Election Commissioner and the other four members of Pakistan's Election Commission is another noteworthy innovation included by the 18th Amendment. The parliamentary committee will receive three candidates from the prime minister for the positions on the Election Commission, and it will confirm one of them after consulting with the leader of the ruling party in the house. The commission now has additional authority over the creation of electoral rolls, the organization of elections to fill open seats, the appointment of election tribunals to hear complaints, and personnel hiring Hussain (Kokab, 2012). Additionally, the Election Commission, not the CEC, has been given authority and power. The CEC is one of the five commissioners who make up the Election Commission. The remaining four require a retired judge of the High Court from each jurisdiction. It is now the Commission's responsibility, not the CEC's, to establish guidelines for the selection of officials and workers in the Commission's service.

The 18th Amendment Impacts on Provincial Autonomy

After the establishment of a legal framework in the 1973 Constitution, the Eighteenth Amendment became the largest, most significant, innovative, and broad modification package. It received the support of all the major parties in Parliament and was eventually adopted. A 27-member Parliamentary Committee on Constitutional Reforms (PCCR), which is headed by PPP Senator Mian Raza Rabbani, has been tasked with coming up with constitutional amendment proposals. The Committee introduced 95 changes to roughly 70 constitutional articles. There were just nine members from the three major parties. All three of Pakistan's major political parties—the Muslim League-N, Muslim League-Q, and Peoples Party—have their origins in the nation's smallest provinces (Islam, 2013). The parliamentary committee devoted 385 hours to deliberating and got 982 responses from the public on a range of topics, including the autonomy of provinces. In April 2010, the committee delivered its 133-page amended report. On April 8, 2010, this received a resounding 292 votes from the National Assembly, and on April 15, 2010, it received 90 votes from the Senate with no opposition. The document was issued the day after the president signed it, on April 19, 2010. 102 articles of the 1973 Constitution have been updated by this Eighteenth Amendment.

A concurrent list was completely removed from the constitution almost ten years after its adoption by the Zulfikar Ali Bhutto administration, but it proved unsuccessful. The top contenders for the 18th Amendment made promises to end this issue permanently. It seemed an achievement towards more autonomous provinces, which would alleviate the sense of desperation felt by people who live in small provinces. For this reason, a concurrent list's topics were moved in Article 142 to the various provinces (Jan, 2022). Prior to the adoption of the 18th Constitutional Amendment, the National and Provincial Assemblies might be dissolved by the President and Governors in accordance with Articles 58 (2)(b) and 112 (2)(b) instead of the Prime Minister's approval. If they felt that the administration was making a mistake and that an appeal to the electorate was essential, they had the option to do so. A similar right to information was granted to citizens under Article 190A, which was viewed as a positive step towards transparency and improving democracy. The aforementioned act changed the number of days that the Senate and Provincial Assemblies had to work from 110 to 90 and 100 to 70, respectively (Khalid, 2020).

Moreover, the Eighteenth Amendment has also brought some major problems. The institutions that have been equipped and given authority as a result of the inclusion of this amendment face these difficulties. Federating regions are given the authority to enact legislation that is superior to the ones on the list with concurrent status. The provincial authority had been transferred to the local governments before power devolved from the centre to the units. Now that these powers have been devolved, the provinces must build the infrastructure needed to use them. Following the transfer of authority, the provinces received several ministries and roughly 100 autonomous entities. Many individuals needed to work hard, and institutions needed to be staffed. Working within the restrictions of the Eighteenth Amendment is also quite difficult. A rigorous and competent leadership style is needed to preserve the state's implementation of the reports of the Special Committee on Provincial Autonomy (Naseem, & Mahmood, 2019).

In a nutshell, The Eighteenth Constitutional Amendment is a set of provisions that bestow favour and authority nevertheless it also places demands on the provinces to demonstrate their capacity for handling the burden of the increased authority. It charges the leadership with the responsibility of maintaining both the state's integrity and the federating units' autonomy. The independence of functions, taking on new responsibilities, and separating resources are crucial components of provincial autonomy. In another light, it does not signify the end of links between the centres and provinces or the division of the provinces from the central government. Legislative, administrative, and financial autonomy in terms of responsibilities, functions, and resources are known as the aspects of provincial autonomy. However, the transfer of authority from the national government to the provinces involves a formal allocation of all of these elements (Rabbani, 2012). In this perspective, the transfer of authority from the federal government to the provinces is centered on the following three elements of provincial autonomy:

Autonomy in Legislation

Making legislation for the effective management of the country is the main duty of Parliament. The allocation of legislative authority between the central government and the provinces is a component of legislative independence. The Eighteenth Amendment repealed the concurrent legislative lists and mediation committee of the Fourth Schedule in favour of provincial autonomy.

Repeal of Concurrent Legislative list

The subjects for legislation were carefully divided between the Federal and Provincial Assemblies because this Amendment intends to remove 47 items from concurrent legislation that are part of the Fourth Schedule of the Constitution. Therefore, provinces continued to be in charge of filling any vacancies on the concurrent list, and a provincial parliament would be given the authority to adopt laws on behalf of each province. For any matter not covered by the Federal Legislative List, the Provincial Assembly, besides Parliament, shall have the power to make laws. The only legislation that will apply to the non-provincial territories of the Federation will be that passed by Parliament. However, the power to pass laws on three items from the same list simultaneously—criminal statutes, criminal court procedures, and facts—has been granted to the Provincial Assembly and the Parliament. Subjects related to the concurrent list were transferred to the federal list, which significantly affected how effectively government entities operated and how policies were created. Article 126, which mandates that all elections be conducted in secret, with the exception of those for premier and chief ministers, was changed to empower the political parties. It would be impossible for members to switch sides or cross the floor (Riaz & Cheema, 2020).

Federal Legislative List

Article 142 states that both the Federal and Provincial Legislatures have the sole authority to exercise their respective jurisdiction over the matters, concerns, and actions that fall under their purview, as well as the areas in which their laws may be applicable. The Federal Legislative List and any issues that are related to it or incidental to it are the only topics and activities on which Parliament is authorized to pass laws. Also, some subjects that were formerly in Part I and Part II of the Federal Legislative List have been rearranged to fall under the purview of CCI so that the

provinces and the federation can deal with them jointly and are now included in Part II of the Federal Legislative List (Shah, 2021). However, if the two statutes address the same matter, the federal laws will take authority. In a nutshell, while provincial laws have exclusive application after the adoption of the Eighteenth Amendment, federal legislation that was passed as a result of the "concurrent list" prior to the Eighteenth Amendment would continue to have authority over them. The Eighteenth Amendment mandates that Parliament have the authority to implement regulations on any subject that is not included in the Federal List before provincial legislatures can approve resolutions.

The Fourth Schedule, which included two legislative lists, the Federal Legislative List and the Concurrent Legislative List, had the most significant alterations. Two sections made up the Federal List. 49 items made up Part I, and 8 items made up Part II. Part I matters are primarily the responsibility of the Federal Government; however, Part II matters are to be considered and determined jointly by the Federal Government and the Provinces through the CCI (Usman, 2011). The Council of Common Interests was responsible for formulating and regulating policies in relation to matters in Part II of the Federal Legislative List and for exercising supervision and control over related institutions. Under the Part II of the Federal Legislative List, the legislative Subjects were required to develop policies that were coordinated and intergovernmental. All those matters where the Federation can establish laws are covered by FLL under Article 70(4) of the Fourth Schedule of the Constitution. However, the caveat to the aforementioned Article 97 states that, subject to any legislation established by the Parliament, the executive authority of the Federation may be employed and extends to any matter that additionally falls under the jurisdiction of a Provincial Assembly (Zaman, 2018).

Administrative Autonomy

Administrative autonomy has two components: how the provinces and the federal government interact and the specific procedures for resolving disagreements between them. Under the Eighteenth Amendment, a number of measures have been taken to improve provincial autonomy in administrative terms. The Eighteenth Amendment allows the provinces to actively participate in the central-level decision-making process. A provincial government may delegate duties to the Centre under Article 147. The concept of provincial autonomy was recognized, but provincial legislatures were still free to transfer any one of their duties to the federal authorities. The Eighteenth Amendment revised and enhanced Articles 153 and 154 in support of participatory federalism in order to revitalize this specific process. In accordance with the 1973 Constitution, the Council of Common Interests was given a considerable role in formulating and directing the Federation's policies in a number of domains, especially water and power. A Council of Common Interests determination is conclusive unless it is altered by Parliament at the Federal Government's request (Waseem, 2010).

The Council of Common Interest

The Council of Common Interests had been given significant authority under the 1973 Constitution to develop and oversee Federation policies on a variety of topics, including water and power. Until the Parliament modifies a Council of Common Interests decision at the Federal

Government's request, such a decision is binding. The Council of Common Interests is a notable constitutional organisation that resolves conflicts, issues, and irritants between the provinces individually and between the provinces and the federation in regards to the issues listed in Article 154. Parliament, which holds the Council accountable, may from time to time, by resolution, direct the Federal Government to take action that it deems appropriate and just; these directives are binding on the Council. Moreover, the Council of Common Interests served as a venue for intergovernmental discussion to promote cooperative federalism and increase provincial autonomy while preventing conflict between provincial and federal policies under vertical power sharing. The Council of Common Interests may also establish and execute schemes with relation to subjects in the second part of the Federal Legislative List, which was a rational constitutional justification for this move towards mainstreaming and integrating collaborative and participative federation in national government. With the addition of nine additional items to the Federal Legislative List II, the Council of Commons' influence over issues of shared legislative interest between the federal government and the provinces has increased. There is now a 90-day interval between CCI meetings, which must be held. A secretariat has been set up in Islamabad with this objective in mind. In addition, past steps have been taken to improve its erratic operation. Despite having access to natural water supplies, the council was given authority to make policy about reservoirs. The Federation shall have no right to construct hydroelectric plants anywhere without prior notification to the provinces (Waseem, 2010).

National Economic Council

A constitutional entity that continued to monitor national economic policies was the National Economic Council. One representative from each province was normally present, and the PM served as chair. The balance of power is shifting towards the provinces with the ratification of the 18th Amendment. It has two representatives, one of whom is the chief minister of each province, while the federal government is represented by four ministers. Once every six months, the council would convene. The provincial chief ministers, the prime minister, and four of their nominations (one from each chief minister) were all nominated to the National Economic Council. The Council, whose duties included examining the nation's overall economic situation and advising the Federal and Provincial Governments on financial, economic, and social policies, was to be presided over by the Prime Minister. Being a constitutional entity, the National Economic Council continued to monitor national economic policies. Each province had a representative, and the PM typically served as its chair. The National Economic Council is the primary vehicle for federal control; in fact, one of the goals of changing Article 156, which deals with the National Economic Council, has been expanded and a substantial structure has been established. The council must also hold meetings at least twice a year. It is an advisory body for financial, commercial, economic, and social issues. The change most significantly emphasises that the advisory council shall maintain balanced growth and regional equity from a collective standpoint. The National Economic Council is in charge of analyzing the country's overall economic position and developing strategies for both the federal and provincial governments with regard to fiscal, commercial, societal, and economic decisions. Among other things, when formulating such plans,

the National Economic Council shall ensure balanced development and regional equity and shall also be guided by the Principles of Policy. The Eighteenth Amendment has made it clear who is a member of the National Economic Council, which was previously a little unclear. The National Economic Council's establishment and functions are outlined in the Constitution.

Financial Autonomy

Financial autonomy relates to how money and property are distributed among federation provinces. The National Finance Commission is an extraordinary agency that advises and makes recommendations to the President on topics of finance, much like the National Economic Council.

National Finance Commission Award

The NFC was a crucial organisation established by the 1973 Constitution that had representation from the provinces and was in charge of allocating resources between the federal and provincial governments. Article 160 outlines the National Finance Commission's authority. A province's part in any award from the National Finance Commission must match its portion in the prior award in order for it to be legally binding. The Federal and Provincial Finance Ministers would be responsible for supervising the enactment of the award twice annually and reporting their findings to the Provincial Assemblies and both chambers of Parliament. By stipulating that a province's portion of an NFC award cannot be smaller than its share of the prior award, the 18th Amendment strengthened the position of the provinces in relation to the NFC (Article 160(3A)). According to Article 160(3B), the NFC was additionally obligated to present its conclusions to the provincial assembly as well as both Houses of Parliament. The NFC is a legal entity comprised of the Ministries of Finance from all of the four provinces, the federal finance minister, who also acts as Chairman, as well as one non-statutory representative from all four provinces. The non-statutory candidate frequently possesses some professional knowledge on matters relating to public finances and fiscal decentralization (Usman, 2011).

Fiscal Autonomy

According to the amendments to the Constitution, the general sales tax on services was transferred to the provinces, giving them their own separate avenues of funding and expanding their fiscal bases. As a result, the provinces now account for more than half of the Federal Divisible Pool and have greater autonomy in fiscal affairs. The 7th NFC award has added a substantial new criterion for the sharing of resources for the fulfillment of all federation units. The provinces' contribution to the federal divisible pools has significantly increased by 10%, going from 47.5 percent to 57.5 percent in the most recent allocation. Additionally, along with population, poverty, revenue generation, and inverse population density are added as the only criteria for the distribution of resources. The 7th NFC award and the 18th Amendment have been considered by federalists as giving the provinces financial autonomy. The centralists, however, assert that it has led to a significant government deficit. For example, the government deficit was 6.8% of GDP annually during the post-seventh NFC award time period (2010–2018), as compared to 5.5% during the post-seventh NFC time period (2005–2010). 7th NFC has had a tremendous impact on Pakistan's resource allocation scenario, which has had a favourable impact on the fundamentals of its federal system.

Natural Resources

Natural gas and hydroelectricity are included in the financial autonomy. The federal levy taxes and royalties received on energy resources like oil and gas will go to the province that has the wellhead for that particular resource. This province will get the net proceeds. Even though they are not assets included in the federal consolidation, the federal government pays the province where the base of the well is located with the net revenues of the oil taxes assessed at the base of the well and earned by the federal authorities. Using a provision already in existence for natural gas, this modification aims to make the province where the wellhead is located a beneficiary of its oil resources. Before building a hydroelectric power plant in the province, it would be necessary for the federal government to have conversations with the provincial authorities. The construction of stations in places where they weren't necessary has occasionally been criticized by the provincial government. Any disagreement over electricity between the federal and provincial governments must be resolved through a constitutional mechanism known as the Council of Common Interest (Abbasi, 2010).

Sharing of Ownership in Natural Resources

Our state governs two separate types of property in terms of money. Pakistani citizens own one piece of property. The public is the true owner of natural resources through their respective governments and the state's control entitlements. Ownerless assets are the term used to describe the second. The escheat statute, or the transfer of priceless commodities like lands, minerals, and other assets to the government, is included in the definition of "ownerless assets." After the Eighteenth Amendment, the Federal Government will become the owner of any property on the continental shelf or under the ocean outside of Pakistani territorial waters. Natural resources such as minerals, oil, and gas that are produced in a province or in its nearby territorial seas are shared equally by the federal government and that province. The National Economic Council has been used by the federal government to offer oversight; in fact, one of the goals of changing Article 156, which dealt with the National Economic Council and its membership, was to make provincial acquisition easier. It is important for the provinces that this article be redacted. In association with the federal government, it acknowledges their entitlements as owners and users of their own natural resources. Thus, the provincial and federal governments shall jointly and equally own all new mineral and natural gas discoveries made inside the provinces and surrounding territorial waters. It addresses long-standing public demands for provincial autonomy and acknowledgement and protection of the right to take pleasure in the earnings of natural assets (Khan, 2020).

The power to raise Loans by the Provinces

Article 167 of the Constitution addresses the regulation of borrowing. The provincial administration could lend money or assure loans using the protection of its Consolidation Fund, subject to the limitations imposed by the Act of Provincial Assembly. A province cannot raise a loan without the federal government's approval if there is still money owed on a loan that the federal government has previously made or guaranteed. Nonetheless, the federal government can agree to impose circumstances that deems appropriate. No similar statement on a province's

ability to borrow outside of Pakistan is made. However, because the Federal Government controls foreign trade and exchange, it is obvious that a province cannot borrow money from Pakistan without the approval of the Federal Government.

Conclusion

In 2010, Pakistan's Constitution underwent a historic change when the Eighteenth Amendment was ratified, giving the provinces more authority and autonomy. The Eighteenth Constitutional Amendment, first established in the Constitution of Pakistan, was intended to provide provinces with extensive legislative, executive, and budgetary authority in order to carry out the Charter of Democracy. The Eighteenth Amendment limited the President's authority while bolstering the Prime Minister's role and Pakistan's parliamentary system. The Constitution underwent several significant revisions as a result of the 18th Amendment, which directly affected Pakistan's system of public education. Undoubtedly, the most significant reform was the adoption of Article 25A, which recognized education as a fundamental right and required the government to provide free and compulsory schooling to all individuals between the ages of five and sixteen. The Eighteenth Constitutional Amendment is an incredible task because the Pakistani people have long desired to reinstate the true and authentic form of the 1973 Constitution and repeal the undemocratic amendments to the constitution made throughout history. The people have also demanded leadership in politics on a regular basis. Pakistan, a democratic nation, has consistently supported and elevated the true hue of the balance of powers between the federal government and its constituent parts. Pakistan has long struggled with the issue of provincial autonomy, and the Constitution's 18th Amendment was a major step in the right direction. It was an important step in settling the contentious matter of appointments to the superior judicial branch, even though the appointment of judges immediately became contentious after the adoption of the Amendment and the process had recently been changed in part in accordance with directions from the Supreme Court, at least temporarily. The Constitution was amended to make a number of reforms that increased provincial autonomy and transferred authority from the federal to the provincial governments. The amendment resulted in the formation of provincial assemblies, which are equipped with the authority to enact legislation on a variety of topics.

Additionally, it has brought forth new organizations like the National Finance Commission and the Council of Common Interests, which are crucial in maintaining the fair division of funds and authority between the federal and provincial governments. The Concurrent Legislative List was eliminated, the Federal List Part II was increased, the CCI was strengthened, the rights of provincial governors were reduced, and the Senate's authority was increased. The 18th Amendment has also empowered local governments by devolving powers and responsibilities to them, enabling them to have a greater say in local decision making processes and to be more directly accountable to their constituents. These changes had the biggest impact on the federation. Additionally, it has aided in encouraging greater provincial participation and involvement in national decision-making, which has led to more responsive and accountable governance. By giving people more opportunity to participate in decision-making processes, the 18th Amendment has also strengthened local communities. The development of local government

structures at the district and sub-district levels has given residents a voice in decisions that directly impact their daily lives. Despite these encouraging advances, it's crucial to remember that obstacles still exist that must be overcome in order for the 18th Amendment to reach its full potential. It is necessary to increase the capabilities of the provincial governments, especially in terms of human resources and fiscal management. Additionally, it is important to closely monitor the issue of resource allocation across the provinces to prevent an unjust distribution of resources that can exacerbate regional inequities. The provincial governments must exercise greater responsibility if they are to maximize the use of the limited resources at their disposal in order to benefit the populace by raising the bar for safety, socioeconomic amenities, and physical assets. They would not have a right to hold the centre responsible for their shortcomings following the 7th NFC award and the resolution of financial concerns resulting from the Amendment. To be able to satisfy more commitments, they must look into ways to generate additional resources, such as by enforcing a capital gains tax on services, a wealth tax on real estate, and an income tax on agriculture. Additionally, they must work together at the CCI to reach an agreement on the construction of water storage dams in order to save the nation from both the current and impending water crises. Overall, the 18th Amendment has brought significant positive changes to the Pakistan's governance system. With the goal of fully realizing the commitments made in the 18th Amendment, it is significant to highlight that there are still issues that need to be resolved. The government continued commitments to implementing the changes introduced by the 18th Amendment will undoubtedly lead to a more democratic, transparent and effective system of governance in Pakistan.

Recommendations

- The federal and provincial governments' officials are expected to act responsibly and carry out the amendment in accordance with its genuine spirit.
- The provinces should be given greater financial autonomy to manage their resources and generate revenue. This can be achieved by providing them with more control over their tax collection and the allocation of federal resources.
- The government should take steps to inform citizens about the advantages of decentralization and how it can result in better governance and development.
- To strengthen legislative autonomy, the provinces should be given greater control over their policy areas that fall under their jurisdiction. This covers sectors like education, healthcare, agriculture and local government.
- The National Finance Commission (NFC) Award and other mechanisms that permit the decentralisation of fiscal authority should be used by the federal government to transfer financial resources to the provinces.
- To enhance administrative autonomy, the provinces should be given greater control over their management of their own affairs.
- The federal and provincial governments must ensure that there are strong accountability systems established to ensure that provincial governments are forthright and accountable for their actions.

- To promote financial autonomy, the provinces should be given greater control over their own financial resources. This includes the power to generate and collect their own revenues, develop their own budgets and manage their own fiscal affairs.
- A crucial element of the 18th Amendment's success is the empowerment of local governments. By giving local government officials training and capacity-building, boosting their financial and administrative autonomy, and encouraging public engagement in local decision-making processes, it is crucial to further strengthen local governance.
- The provinces must be reimbursed for any back taxes on petrol and oil as well as net hydrocarbon profit that are owed to them.

By implementing these recommendations, the government can help to promote greater provincial autonomy and enhanced democratic governance in Pakistan. This would not only benefit the provinces but would also contribute to overall development and prosperity of the country.

References

- Abbasi, Z. F. (2010). Federalism, Provincial Autonomy, and Conflicts. *Islamabad: Centre for Peace and Development Initiatives*.
- Adeney, K. (2012). A step towards inclusive federalism in Pakistan? The politics of the 18th amendment. *Publius: The Journal of Federalism*, 42(4), 539-565.
- Ahmed, I. (2020). The 18th Amendment: Historical Developments and Debates in Pakistan. *ISAS Insights*.
- Ahmed, M., & Baloch, A. (2019). The impact of fiscal decentralisation through 7th NFC award on healthcare and basic education in Balochistan, Pakistan. *International Journal of Applied Business and Management Studies*, 4(2), 1-30.
- Bashir, Q. A., & Arif, M. (2021). DETERRENCE AND ADJUSTMENT IN FEDERALISM: A CASE STUDY OF PAKISTAN. *Ilkogretim Online*, 20(2).
- Begum, S., Ashraf, M. I., & Ishaque, W. (2018). National Plan for Devolution of Power under 18th Amendment: Challenges for Government in the New Pakistan. *Global Social Sciences Review (GSSR)*, 71-88.
- Burki, S. J. (2010). *The 18th Amendment: Pakistan's Constitution Redesigned*. Institute of South Asian Studies.
- Gaho, G. M., Bukhari, A. H. S., & Shah, S. A. U. M. (2022). REVISITING THE 18TH AMENDMENT IN THE 1973 CONSTITUTION OF PAKISTAN: DEBATE OVER CENTRE-PROVINCE POWERS. *Pakistan Journal of Social Research*, 4(2), 384-390.
- Hussain, M., & Kokab, R. U. (2012). Eighteenth amendment in the constitution of Pakistan: Success and controversies. *Asian Social Science*, 8(1), 81.
- Islam, F. U. (2013). The 18th amendment in the 1973 constitution. *The Dialogue*, 8(2).
- Jan, A. (2022). The Rise of Taliban in Afghanistan in 2021 and its Security Implications for Pakistan. *Pakistan Journal of Social Research*, 1059-1067.

- Khalid, I. (2020). Politics of Federalism in Pakistan: Problems and Prospects. *South Asian Studies*, 28(1).
- Majeed, G. A., Qureshi, M. I., & Qayum, S. (2021). IMPACT OF THE EIGHTEENTH CONSTITUTIONAL AMENDMENT ON PROVINCIAL AUTONOMY IN PAKISTAN.
- Naseem, K., & Mahmood, A. (2019). Implementation of the Eighteenth Amendment in Pakistan: An Analysis. *Journal of Pakistan Vision*, 20(1), 1-18.
- Pakistan, & Pakistan. National Assembly. (1973). *The constitution of the Islamic Republic of Pakistan*. Manager of Publications.
- Rabbani, M. R. (2012). *A Biography of Pakistani Federalism Unity in Diversity* (Islamabad).
- Riaz, J., Khan, A. N., & Cheema, Z. I. (2020). Revisiting the Eighteenth Constitutional Amendment: Obscurities and Prospects. *Pakistan Social Sciences Review*, 4, 509-521.
- Shah, S. A. A., Shah, H., & Shah, B. S. S. A. (2021). The Eighteenth Amendment and its Impact on Functionability of Provinces. *FWU Journal of Social Sciences*, 15(1), 67-80.
- Usman, M. (2011). *Fiscal Federalism in Pakistan: the 7th National Finance Commission Award and Its Implication*. PIDE Working Papers 2011: 73, Pakistan Institute of Development Economics, Islamabad, Pakistan.
- Waseem-LUMS, M. (2010). *Federalism in Pakistan*.
- Zaman, A., Subhan, F., Mumtaz, A., & Khan, A. Q. (2018). 18th amendment & provincial autonomy: challenges for political parties. *Bi-Annual Res J, Balochistan Study Centre, University of Balochistan*.