

DEVELOPMENT ADVOCATE PAKISTAN

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FIVE YEARS OF THE 18TH AMENDMENT

Lessons Learnt, Milestones Achieved

DEVELOPMENT ADVOCATE
PAKISTAN

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Development Advocate Pakistan provides a platform for the exchange of ideas on key development issues and challenges in Pakistan. Focusing on a specific development theme in each edition, this quarterly publication fosters public discourse and presents varying perspectives from civil society, academia, government and development partners. The publication makes an explicit effort to include the voices of women and youth in the ongoing discourse. A combination of analysis and public opinion articles promote and inform debate on development ideas while presenting up-to-date information.

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ANALYSIS

- 03 Five years of the 18th Constitutional Amendment:
Federalist imperatives on public policy and planning
- 09 Status of implementation of article 172(3)

OPINION PIECES

- 11 The post-18th amendment federalism in Pakistan
- 13 Participatory decision making and inter provincial relations:
Studying five years of council of common interests (2010-2015)
- 15 Ensuring right to information and public accountability:
Inter-provincial comparisons
- 17 Harnessing general sales tax on services: *Sindh shows the way*
- 19 A step towards fiscal autonomy
- 21 The circularity of public policy reforms in Pakistan:
The case of the 18th amendment
- 23 Provinces must act to complete the 18th amendment
- 25 The 18th amendment, federalism and ethnic politics in Pakistan
- 26 The 18th amendment and ethnic management in Pakistan
- 27 Local government elections in Balochistan
- 28 Consensus-building for provincial development agenda:
Understanding the dynamics of the Balochistan Development Forum 2015
- 30 The relevance of higher education in the aftermath of the 18th
constitutional amendment
- 30 Civil society perspective: *Federalism sans federal culture*
- 34 German contributions to the federalization process in Pakistan

INTERVIEWS

- 37 Hasil Bizenjo
Senator
- 37 Haji Muhammad Adeel
Senator
- 38 Farah Aqil
*Ex-Senator and former Chairperson of the standing
committee on the Inter-Provincial Coordination*
- 38 Muhammad Ejaz Chaudhry
Secretary Inter-Provincial Coordination

April 2015

CONTENTS

by Dr. Mohammad Waseem

by Ahmad Mehmood Zahid

by Zahid Abdullah

by Dr. Pervez Tahir

by Dr. Kaisar Bengali

by Farrukh Moriani

by Nargis Sethi

by Asma Faiz

by Katharine Adeney

by Hafiz Abdul Basit

by Aoun Sahi

by Prof. Dr. Mohammad Nizamuddin (S.I)

by Zafarullah Khan

by Dr. Cyrill Nunn

YOUTH VOICES

- 41 Youth voices from Khyber Pakhtunkhwa
- 42 Youth voices from Balochistan
- 43 Youth voices from Punjab
- 44 Youth voices from Sindh

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The cover picture shows then President of Pakistan, Mr. Asif Ali Zardari, assenting the historic 18th Amendment, on 19th April, 2010. This picture was released by the Government of Pakistan on the press information department website.

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EDITORIAL

These days, Pakistan has a reason to celebrate. It is the fifth anniversary of its 18th constitutional amendment. But is it just an amendment or a constitutional revolution? Only two years after the end of military rule the country deconstructed its state order and reinvented provincial autonomy under a federal roof. With the 18th amendment, Pakistan has given itself in April 2010, a contemporary, democratic and federal state order, which allows the country to build decentralized and local government structures. Now, five years after the amendment, it is possible to hold democratic elections at the federal, provincial and local levels and provides an unprecedented opportunity for Pakistan to consolidate its democracy after the centrist regime.

But significant federal institutions and implementation mechanisms in charge of the devolution at all levels of government are still little developed or even non-existent. Also, the highly desired inter-provincial coordination remains in its infancy and is not supported by any effective structure. Risks of failure of a timely, coordinated and fully implemented 18th constitutional amendment remain in terms of party, societal and security politics. This could lead to a democratic, institutional and economic backlash in Pakistan and give a strong impetus to the dissidence movements and these again could provoke a military response.

Since the adoption of the 18th amendment, UNDP strives to strengthen participatory federalism and decentralization at all three government levels in parallel. UNDP and its partners continue in focusing their capacity building efforts on the key institutions in charge of the devolution process in order to strengthen effective service delivery in a manner that is transparent and accountable to the people at the local level.

The Council of Common Interests (CCI) as the central political institution regulates the competencies and settles disputes between the federal government and the provinces. The CCI exists in the Constitution since 1973, but its competencies became relevant only through the democratic constitution and its 18th amendment in April 2010. The CCI consists essentially of the Prime Minister and the Chief Ministers of the four provinces. It is meant to harmonize the interests between the federal government and the provinces and regulates the distribution of essential tasks of state services and care like health policy, social policy, public security, infrastructure and economic development, budget, culture and education. But the CCI remains behind expectations because its corresponding mechanisms in the provinces are underdeveloped, as well as the so much needed inter-provincial cooperation. According to Article 154 (III) of the Constitution, the CCI should operate a permanent secretariat and meet at least every 90 days. Until March 2015, the CCI has met 16 times and is administratively supported by the Federal Ministry for Inter Provincial Cooperation. This interim solution is constitutionally doubtful, since the ministry is an integral part of the federal government and puts the independent function of the CCI into question.

The Federal Ministry for Inter-provincial Cooperation (IPC) is corresponding in the four provinces with the respective Provincial IPC Departments to accompany the devolution between the federal and provincial administrative. Here, the concrete responsibilities of political, social and fiscal nature are distributed. The Provincial Department IPCs thereby prepare the line departments of the provinces in the realization of their still new responsibilities. Unfortunately, the line departments are often overwhelmed with the newly devolved tasks, in particular in the downstream process to the

district administrations. UNDP is assisting several provincial departments in the formulation of provincial policies, legal and public administration reforms and its implementation into districts and the local level.

Interprovincial cooperation is another institutional challenge. Currently, the provinces manage the transfer of devolved duties in a state of isolation. The provinces should transfer their new competencies into province-specific management actions through their IPC departments along with the line ministries. In this process, provinces work often isolated from each other without dividing the labour but having all the same tasks. They could jointly develop their policy and learn from each other but rarely coordinate their own provincial policy towards the federal government. Through the establishment of a formal inter-provincial coordination mechanism led by the provinces, equally substantial problems with the transfer of competencies could be cleared and tailor made province-specific solutions could be coordinated here (i.e. creation of a provincial health policy). Further, the provinces could jointly regulate competence building in essential policies, saving time and resources. UNDP is assisting the provinces through inter-provincial meetings in formulating and coordinating their policies on public health management, local governance, higher education and on extractives and energy.

At the other end of the new state organization are the local governments with democratically legitimized representatives. So far, only the province of Balochistan has gone through all stages of the local elections successfully and thus disposes mayors and councilors on the district and community level. Earlier this year, the Election Commission of Pakistan (ECP) has finally fixed election dates for the three other provinces and local elections should be carried out in all three provinces within the next twelve months. The provinces of Khyber Pakhtunkhwa, Punjab and Sindh are little or not at all prepared for this step and have made only a few arrangements for implementing their respective acts on local government. UNDP is providing technical assistance to provincial departments, district administrations and local governments through capacity development and management reforms, in particular in the context of local elections in 2015.

However, successful implementation of these elections and consequently functioning local governments would be the essential and logical conclusion of the 18th amendment. They would hold elected councilors responsible for service delivery, economic development and security to their citizens. They would legitimize state action at the district and community levels and strengthen participatory federalism through more democracy and transparency against separatist movements on the ground. With more political commitment and consequent action, the constitutional reform through its 18th amendment has the potential to bridge the diversity of people and facilitate national unity.



ANALYSIS

FIVE YEARS OF THE 18TH CONSTITUTIONAL AMENDMENT: FEDERALIST IMPERATIVES ON PUBLIC POLICY AND PLANNING

The 18th Constitutional Amendment was unanimously passed by the Parliament and notified in the Gazette of Pakistan on 20th April, 2010. This amendment introduced changes to about 36 percent of the 1973 Constitution of Pakistan: 102 out of 280 Articles of the Constitution were amended, inserted, added, substituted or deleted. The 18th Constitutional Amendment has redefined the structural contours of the state through a paradigm shift from a heavily centralized to a predominantly decentralized federation. Literature suggests that federalism was originally devised and continues to be viewed as an institutional mechanism for dividing power and sovereignty between national and regional levels of governments in order to reduce the likelihood of an authoritarian or overly centralized government.¹ In this context, the new constitutional framework of Pakistan has reinforced a multi-level governance system by extending greater autonomy to the federating units (provinces) and laying down fundamentals of substantive decentralization at the lower tiers of the local governance.

Pakistan's Constitution delineates the extent of executive authorities of federal and provincial governments through Article 90 and 137 respectively. The executive authority of the federation extends to matters with respect to which the Parliament holds the power to make laws, including the exercise of rights, authority and jurisdiction in and outside Pakistan, while the executive authority of the province extends to matters with respect to which the Provincial Assembly has the power to make laws. Principally, the executive authority has been conditioned with the legislative authority at the federal and provincial levels. The 18th amendment has re-demarcated the jurisdictions of Pakistan's multi-level governance at the federal, inter-provincial and provincial levels by revising the Federal Legislative List Part I and Part II and abolishing the erstwhile Concurrent Legislative List. Subsequently, the legislative and executive authorities of the federal and provincial governments have been delimited by assigning the exclusivity of 53 subjects to the federal government, 18 subjects to the Council of Common Interests (CCI) and all residual subjects to the provincial governments. Further redistribution of functions at the district, tehsil and union council levels has been vested with the provincial governments in accordance with the policy framework enunciated in Article 140 (A) of the Constitution.

Pakistan's architecture of multi-level governance necessitates developing corresponding framework(s) of diverse, shared and decentralized public policy-responding to the jurisdictions of the respective tiers of governance. In literature, multi-level governance (MLG) refers to the explicit or implicit sharing of policy-making authority, responsibility, development and implementation at different administrative and territorial levels including, across different ministries and/or public agencies at the central government level, between different layers of government at the local, regional, provincial/state, national and supranational levels and, across different actors at sub national/provincial levels.²

This article will attempt to revisit the first five years of the passage of the 18th Constitutional Amendment with a focus on understanding the imperatives of an evolving federal structure on public policy and multi-level governance in Pakistan. It will do so by first, looking at functional redistribution spearheaded by the Implementation Commission (IC); second, analyzing the areas of convergence and contest at inter-governmental level; third analyzing the level of preparedness of provinces to optimize policy spaces provided by the amendment; and finally some futuristic projections for a federalist

and decentralized public policy in Pakistan.

Functional re-distribution at the federal and provincial levels

After the unanimous passage of the 18th amendment, the process of the redistribution of subjects, functions and ministerial restructuring at the federal level was steered by a time bound IC constituted by the federal government on 4th May, 2010. The commission completed the designated task on 30th June 2011, within the deadline set out in the 18th Amendment Bill. The Implementation Commission comprised of members of Parliament representing Pakistan Peoples' Party Parliamentarians (PPPP), Pakistan Muslim League–Nawaz (PMLN), Awami National Party (ANP), Pakistan Muslim League–Quaid-e-Azam (PML-Q), Jamiat Ulama e Islam–Fazal (JUI-F), Muttahida Qaumi Movement (MQM) Pakistan Peoples Party Sherpao (PPP-S), National Party (NP) and Pakistan Muslim League–Functional (PMLF).

In 68 meetings and a number of inter-governmental consultations spanning over thirteen months, the IC examined the financial, administrative, legal and international aspects of devolution and made some far-reaching decisions which introduced a new framework of inter-governmental relations in the country. The commission ensured that any legislation, activity or function to be retained in the federal government was supported by a corresponding entry in the Federal Legislative List or an Article of the Constitution and would not encroach upon subjects that were purely provincial in terms of the Constitutional provisions.³

Moreover, the commission constituted a number of sub-committees/expert panels to devise recommendations on:

- Laws/rules to be amended or enacted as a consequence of devolution;
- Adjustment of employees that would be rendered surplus after winding-up of various ministries/divisions and subordinate organizations;
- Making budgetary provisions for clearing liabilities of devolved organizations;
- Creating a Devolution Cell under the Cabinet Division to administer assets of devolved ministries/divisions and subordinate organizations;
- Distribution of such assets and allocations of buildings or offices of devolved organizations to other federal government organizations, and;
- Examining the legal, administrative and financial aspects relating to the transfer of employees of different categories and suggesting measures including amendments in laws, rules and regulations, for their absorption and career progression.

Key decisions of the Implementation Commission included:

- Abolition of 17 federal ministries/divisions:** The identified ministries were wound up in three phases with transfer of provincial subjects to the provinces and reallocation of remaining functions to other ministries/divisions in the federal government. Abolished ministries included culture, education, special initiatives, environment, health, labour and manpower, local government and rural development, minorities affairs, population welfare, social welfare and special education, sports, tourism, women development, youth affairs, zakat and ushr.⁴

- b. **Creation of Capital Administration and Development Division (CADD):** The IC recommended the creation of a new division to deal with functions and activities of the devolved ministries specific to Islamabad. Some of the offices of the devolved ministries located in Islamabad have subsequently been placed under CADD, which was notified on 31st March, 2011.
- c. **Staff transfers:** A total of 61,231 federal government employees had to be repositioned after the abolition of seventeen federal ministries/divisions. Employees working in various field organizations under the abolished ministries/divisions were to be transferred to the respective administrations of the provinces and federal areas (Islamabad Capital Territory, Federally administered Tribal areas and Gilgit-Baltistan) till the formulation of a new enabling law.
- d. **Staff re-appropriation:** Employees working in any ministry being abolished and not taken by the provinces/federal areas were to be adjusted in other ministries/divisions. None of the employees would be retrenched/laid off.
- e. **Fiscal transfers:** Funds for transferred activities and manpower of devolved ministries budgeted in the year 2010-11 to be transferred to the provinces/federal territories on pro rata basis.⁵
- f. **Transfer of development projects:** Development projects of abolished ministries/divisions to be transferred to the provinces/federal territories along with project employees.
- g. **Transfer of assets:** Office buildings, furniture, fixture, equipment and transport in use of these offices would be handed over to the provinces.
- h. **Interim financial support for Higher Education Commission:** Financing for current expenditures of universities would be borne by the federal government till the expiry of the 7th NFC Award.

Convergence and contest in inter-governmental relations

Though the implementation of the 18th amendment in terms of transferring subjects, functions, institutions, assets and projects was completed on 30th June 2011, some issues remain to be resolved. The IC expired on a stipulated date and the pending issues were taken up and resolved by the CCI, which remains a permanent body to address inter-governmental disputes on issues of recurring contest between provinces and the federal government. All matters related to inter-provincial claims and contestation fall within the domain of the CCI with 18 specific subjects including railways, mineral oil and natural gas, development of industries, electricity, major ports, regulatory authorities, national planning and national economic coordination, supervision and management of public debt, census, standards in higher education etc (See article "Participatory Decision Making and Inter Provincial Relations: Studying Five years of the Council of Common Interests 2010-2015").

Cultivating a political culture of consensus-building

The CCI discussed 105 agenda items in sixteen meetings held in the last five years. Various ministries of the federal government moved 99 summaries, while provinces have moved only 6 summaries in the last five years. Some bills and policies approved by the CCI in the last five years include Private Power and Infrastructure Board Bill, 2010, Draft Securities and Exchange Commission of Pakistan Bill, 2011, Policy Guidelines for Power Generation through Small Independent Power Projects below 50 MW Capacity, Special Economic Zones Bill, 2011, Distribution of Zakat Funds to Federal Areas and Provinces and Distribution of Areas of Unutilized Zakat Funds claimed by the Provinces and lastly, the 6th Population Housing Census with a shared fiscal responsibility from divisible pool.

Provinces are not mere passive participants of the CCI. They can request a meeting through formal communication with the Chairman of CCI. Provinces have also been enabled to set the agenda

for CCI meetings. In its meeting held on 1st February, 2011, the CCI decided that the federal ministries/divisions initiating summaries for it should ensure their prior circulation to the provinces and their comments should be incorporated in the summary. Approval of all the bills and policies within the CCI domain has been made conditional to concurrence by the provinces.

On certain contentious issues, CCI agreed to the provincial interpretations presented by one but benefitting all provinces. For example, in a dispute arising between the government of Punjab and the federation over the interpretation of Article 157 and an amendment in the policy of power generation projects 2002, the former prevailed bringing benefits to other provinces at large when the CCI considered the summary submitted by the government of Punjab and decided in its favor, whereby provinces were given complete authority to develop power projects of any capacity themselves or through the private sector. CCI also decided that any remaining ambiguities may be removed through necessary amendments in National Electric Power regulatory Authority (NEPRA) Act.

In another meeting discussing the agenda item on Public Debt Management and Supervision Policy submitted by the Finance Division in 2011, CCI directed that the policy statement containing objectives, scope, present position of domestic and external debt and medium-term macro-economic framework proposed in the different borrowing options should be made subject to consultation with the provinces. This direction has ensured parliamentary supervisory function on public debt management. CCI observed that the current debt management is fragmented and this decision will bring a cohesiveness in the documentation thereby aiding effective and efficient debt management in the country.

In another decision on the privatization of power sector entities, it was decided by the CCI that Chief Secretaries of provinces shall be members of the Privatization Board and Chief Ministers shall be the members of the Cabinet Committee on Privatization. In one of the CCI meetings, the approval of the National Mineral Policy 2012 was deferred as it involved issues of constitutional jurisdiction and necessary consultation with provinces.

After the devolution of subjects related to zakat, there has been a tussle between the provinces and the federal government on collection and distribution of zakat. The issue was resolved by the CCI with a consensus on a proposal by the government of Punjab. Punjab proposed that the collection of zakat may remain centralized with the federal government till the next NFC Award. Seven percent of the total collected zakat be retained by the federal government for federal areas (ICT, FATA and GB), while the remaining 93 percent be distributed among provinces in accordance with the pre-2008 formula: Punjab 57.36 percent, Sindh 23.71 percent, KPK 13.82 percent and Balochistan five percent.

Policy disconnects, impending issues and provincial entitlements

The implementation of the 18th amendment required substantial changes in the existing legal, regulatory and policy frameworks on devolved and shared subjects. About 48 federal laws were identified which needed amendments to reflect the intent of the 18th amendment. Rules of Business at federal and provincial levels have been amended and a number of critical issues have been resolved. However, some issues still remain unsettled because of the lack of political will, policy disconnects and the absence of evidence-based strategies hampering the pace and process of transition management (see article "Civil Society Perspective: Federalism sans federal culture").

Following are some key issues which await policy decisions:

- a. **Operationalization of joint ownership on oil and**

natural gas: According to Article 172(3), the oil and gas producing provinces are entitled to have 50 percent ownership and management control on oil and gas and mineral resources in their respective regions. There is an ongoing tussle of interpretation between provinces and the Federal Ministry of Petroleum and Natural Resources (MPNR) on Article 172(3). Sindh claims its exclusive right in the extension of exploration licenses to oil and gas companies, while Balochistan demands the abolition of the MPNR. The exploration of oil and gas in 50 blocks allotted to national and international oil exploration companies in different provinces two years ago could not begin due to the absence of a consensus framework between the federal petroleum ministry and respective provinces.⁶

b. **Policy regulation and supervisory control of CCI:** Some key subjects enlisted in the Federal Legislative List II need to be studied in order to determine as to how the policy, regulatory and supervisory control of these subjects can be governed by the CCI under the framework of shared responsibility and joint control. Provincial representations in federal regulatory authorities and mechanism for joint management of electricity, ports, national planning supervision and public debt; and defining standards in higher education are some critical issues which need in-depth policy debates and appropriate decisions. Provincial representation in the management boards of federal entities was demanded by the government of Khyber Pakhtunkhwa, which was supported by other provinces also. This demand was based on a pro-active interpretation of entry three of the Federal Legislative List II. The matter is yet undecided but presents another example of contest on provincial right. Due to the absence of the subordinate legislation, both the federal and provincial governments have been claiming authority over decisions related to oil and gas exploration (See following box feature "Status of Implementation of Article 172(3)").

c. **Higher Education Commission (HEC):** With the devolution of higher education, Sindh and Punjab have established their respective provincial higher education commissions, while the Central HEC and Federal Law Ministry terms them as "unconstitutional". CCI in its last meeting in March 2015 has established a task force to resolve the issue between central and provincial HECs.

d. **Provincial borrowings:** The 18th amendment empowered provinces to access foreign loans but up till now, required rules and limitations of loan amounts have not been framed by the Executive Committee of the National Economic Council (ECNEC). The Issue was taken up by the CCI but no progress has been made so far.

e. **Federal employees' resettlement:** Status of government servants transferred to provinces remains unclear as provinces claimed that the issue of their promotion and other privileges adds to an additional financial burden on the provinces. Provinces claimed that the federal government has not provided required funds for the vertical programs related to health and other ministries.

f. **Evacuee Trust Property Board (ETPB):** In the wake of the 18th amendment, ETPB and its assets were transferred from the Ministry of Minorities' Affairs to the Ministry of Human Rights at the federal level, while Punjab and Sindh sought devolution of the ETPB. ETPB was set up under an act in 1975 to manage religious places and properties of Hindus and Sikhs who migrated to India after 1947. According to a bilateral agreement between India and Pakistan, it was the responsibility of the federal government to look after the minorities' properties. The federal government contended that the ETPB could not be devolved to the provinces owing to "contractual obligation under the international treaty". However, provinces opposed this contention and suggested that the ETPB could be devolved on the pattern of devolution of archeological sites as some of the archeological sites also involved international obligations.⁷



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g. Employment Old-Age Benefit Institution (EOBI): The EOBI was established in 1976 to provide for compulsory social insurance. EOBI had assets worth Rs 148 billion.⁸ It extends benefits to insured persons or their survivors in terms of old-age pension, survivor's pension, invalidity pension and old-age grant. Federal Board of Revenue (FBR) collects five percent worker wages in an industry, to be paid by the employer, and one per cent of the wages, to be paid by the worker, and places the funds at the disposal of the EOBI. EOBI then utilizes these funds for payments such as old-age pension, old-age grant and invalidity pension. The EOBI head office is located in Karachi and 38 percent of the EOBI contributions are generated in Sindh.⁹ All four provinces demanded the devolution of EOBI assets but it is still retained by the federal government.



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h. Workers Welfare Fund (WWF): WWF was calculated at Rs 81 billion. WWF provides grants to worker welfare boards, constituted in each province, to execute welfare projects. The FBR annually deducts two percent of total income of all registered industrial units, whose income exceeds Rs 500,000 and places these funds at the disposal of WWF for utilization. The Punjab government advocated distribution using the NFC formula, which based the process on the number of registered industrial units and workers. Up to 10,831 industrial units with 676,755 registered workers are operating in Punjab. On the other hand, the Sindh government is pleading for distribution to be based on source of collection and deduction of welfare fund and pension, as head offices of most of the industrial units, registered under the two organizations—WWF and EOBI—are working in Karachi. However, Khyber Pakhtunkhwa and Balochistan governments have proposed to continue the use of the existing formula, under which both provinces are receiving comparatively higher funds.

i. Allocation of hunting areas to foreign ministry: The hunting areas for foreign dignitaries have been transferred from the Ministry of Environment and assigned to the Ministry of Foreign Affairs. Punjab resisted this in 2011.

j. Aerial Survey and Pakistan Agricultural Storage and Services Corporation (PASSCO): The subject of seed testing and seed certification has been reallocated from the Ministry of Food and Agriculture to the Ministry of Science and Technology while PASSCO has been transferred to the Ministry of Commerce and then moved to the Ministry of Food Security. The Punjab government demanded that the aerial survey should remain with the department of plant protection whereas seed testing and seed certification should be devolved to the provinces and the Pakistan Agricultural Storage and Services Corporation (PASSCO) should also be transferred to the Punjab government, as food and agriculture fall under the provincial government.

k. Pakistan Sports Board: After the devolution of sports,

provinces demanded that Pakistan Sports Board should be reconstituted with more than 50 percent representation from the provinces.

l. Aiwan-i-Iqbal: The Iqbal Academy and Aiwan-i-Iqbal located in Lahore have been assigned to the Inter-Provincial Division. Punjab demanded the transfer of these assets.

m. Pakistan Baitul Mal: The administration of Pakistan Baitul Mal has been allocated to the Prime Minister's Secretariat. Provinces demanded its devolution.

n. National College of Arts: The Punjab government maintained that the federal government has retained administrative control of the National College of Arts even after the 18th amendment. It was put under the administrative control of the Inter Provincial Coordination (IPC) ministry, which was contested by the Government of Punjab.

o. Tourism: Pakistan Tourism Development Corporation (PTDC) and its subsidiaries have been assigned to the Inter-Provincial Division. Currently, PTDC has 35 motels, one hotel and four restaurants across the country. The Khyber Pakhtunkhwa Government has consistently been pressing for devolving the PTDC along with 20 motels and restaurants and a tourist information center to the province.

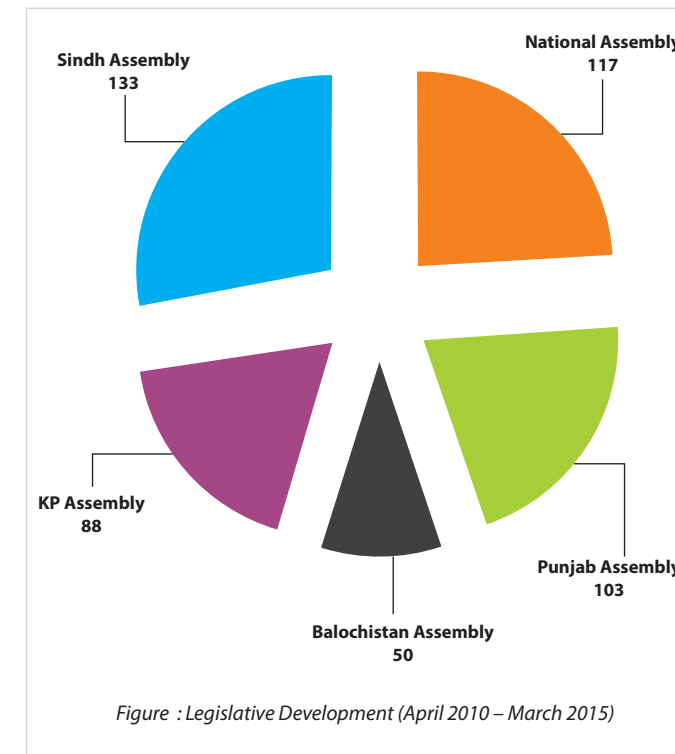
p. Port Authorities: Based on a CCI decision on the amendment to the Gwadar Port Authority Act relating to its chairmanship and 50 percent membership of Balochistan in its board of governors, the Sindh government announced to plead for similar privileges for Karachi Port and Qasim Port Authority.¹⁰

Provincial responsiveness to enhanced policy spaces

The 18th amendment provided provinces with legislative, institutional, policy and planning spaces to create a system of context-specific governance for better service delivery at the grassroots level. The IC identified a number of provincial laws which required to be enacted, amended or adopted for the adoption of devolved functions. There has been a variant response to the legislative requirements by the provinces. An inter-provincial comparison on legislative development after the 18th amendment from April 10, 2010 to March 2015 reflects that Sindh Assembly passed the highest numbers of laws (133), followed by Punjab (103), then Khyber Pakhtunkhwa (80), then the Balochistan Assembly (50), and finally the National Assembly passed 117 laws. However, this data is not reflective of how many laws have been passed as sub-ordinate legislation in response to the 18th amendment. Punjab province has carried out an exercise of adoption or amendment of laws subsequent to the 18th amendment and identified an indicative list of 70 provincial laws to be amended, adopted or substituted. Punjab province has already passed 40 laws while nineteen are in the process. Balochistan has passed 18 laws while eleven are awaiting approval by the provincial cabinet. Sindh and Khyber Pakhtunkhwa have passed 35 and 32 laws respectively.

However, in terms of the quality of process and substance of legislation in line with the Article 19(A) introduced by the 18th amendment, the legislative and institutional framework of the governments of Khyber Pakhtunkhwa and Punjab are comparatively inclusive and progressive as compared to the existing access to information laws in Sindh and Balochistan.

Khyber Pakhtunkhwa and Punjab have set impressive examples in terms of introducing instruments of transparency and accountability in governance and the process of public policy (See article "Ensuring Right to Information and Public Accountability: Inter-Provincial Comparisons").



Consequent to the 18th amendment, the government of Sindh enacted the Sindh Revenue Board Act, 2010 to regulate matters relating to the fiscal and related economic policies; administration, management; imposition, levy and collection of taxes, duties, cess and other levies, by creating an organization (Sindh Revenue Board) capable of enforcing the tax system through application of modern techniques of information and developing an automated system of collection and assessment of tax. Later, the province enacted the Sindh Sales Tax on Service Act, 2011 for the levy and collection of Sindh Sales Tax on the services provided or rendered. SRB is also responsible for the overall tax policy, taxpayers' education, taxpayers' facilitation and tax administration. This led the other provinces of Punjab and Khyber Pakhtunkhwa to enact Punjab Revenue Authority in 2012 and Khyber Pakhtunkhwa Revenue Authority in 2013. Balochistan has budgeted the establishment of Balochistan Revenue Authority in its annual budget in 2014 and 2015, however, the Authority has not yet been established and the viability of such an authority in a province with low level of service sector is being studied by the Balochistan's Chief Minister's Policy Reforms Unit (See article "Harnessing GST on Services: Sindh shows the way").

While Balochistan was the first province to conduct local government elections and organize a Balochistan Development Forum to create a political consensus on development vision and strategy of the province, Khyber Pakhtunkhwa was the first province to come up with a Mineral Policy in 2014. The mineral policy is aimed to activate the mineral sector to enhance and sustain its contribution to government revenues, foreign exchange earnings, employment creation, ancillary economic activities, human resources and technology development and the improvement of social and physical infrastructure.

The 18th amendment has created a balance through divisions of power between federal and provincial tiers of governance; however, the trickle-down effect of this vertical devolution has not been equitably distributed to the lower tiers by the provincial capitals. A

universally acceptable form of the federation guarantees a balanced distribution of power among the federating units, including the local governments. However, local government elections remained an elusive goal in Pakistan.

Consequently, the fiscal and policy controls have been concentrated in the provincial legislatures and executives. The legislative instrument of trickle-down decentralization in this case could have been through the formulation of local governments with substantive devolution of fiscal and administrative authorities to local governments at district, tehsil and union council levels.

There has been no election of local government in the last nine years except in Balochistan, which was the lead province in conducting local government elections. The first phase of local government elections took place in Balochistan on 7th December 2013, second phase on 29th May 2014 and third phase on 31st December 2014. Fourth and last phase was conducted on 28th January 2015, which was for elections of mayors, deputy mayors or chairman and deputy chairman of 32 districts of Balochistan.

The interpretational difference on 'constituency delimitation' of local government units remained a major issue of legal debates which was settled by a verdict of the Supreme Court. In line with the judicial order, the President as well as governors of Punjab and Sindh promulgated ordinances which empowered the ECP to conduct LG delimitation through amendment to the relevant federal and provincial legislation. The ECP has followed suit by preparing the associated rules for the delimitation of constituencies (national and local bodies). These fill a gap in legislation that has existed since the passage of the 1947 Delimitation of Constituencies Act.

After a series of court proceedings on different petitions seeking implementation of Article 140(A), on the instructions of the apex court, election schedule for local governments was issued in March 2015. According to proposed schedule, the LG polls process in Punjab and Sindh will start on 29 July, 2015 and the polling will be held on 20 September, 2015. The LG polls in the cantonment areas will be conducted on April 25 while polls in Khyber Pakhtunkhwa will be held on 30 May, 2015. In Islamabad Capital Territory (ICT), the LG polls will be held on 25 July, 2015.

Being an extension of the Local Government Ordinance 1979, the existing local government laws in Balochistan, Punjab and Sindh do not devolve much in substance to the districts; still the process of party-based elections at the local level can be seen as a first step towards strengthening multi-party system and deepening democracy in Pakistan. With the local government election this year, Pakistan would complete the first cycle of multi-level democratic governance.

Conclusion: Strengthening participatory federalism and decentralization

The exponential devolution of legislative, executive and policy arenas from federal government to the provinces and redistribution of subjects and reallocation of attached departments within federal government was not free of contest, controversies and skepticism. Centralist tendencies in politics, bureaucracy, civil society and media remained skeptical and critical of "hurried devolution" while federalist and devolutionist tendencies remained unprepared to actualize the home-driven process of devolution with technical ingenuity to converge the legislatures' intent of federalist devolution into a public policy and governance framework. The federalist and devolutionary paradigm introduced by the 18th amendment has been swinging between charged narratives of "too-little-too-late" and "too-much-too-soon". Some viewed that the amendment has weakened while others believed that it has strengthened the

federation. However, it was less studied and analyzed as what would be the implications of the amendment on the delivery of critical services to the citizens and how the process of transition management could be made more informed, inclusive and result-oriented in increasing the quality and outreach of development outcomes at respective tiers of governance.

Understandably, it was challenging for the oversized federal government to concede its power and space to the provincial governments as it was promising for provinces to reclaim the same. Therefore, the process of the implementation of the 18th amendment was and continues to be an institutionalized process enabling constant contest and negotiation of power and space between federal and provincial tiers. The experience of other federal countries suggests that institutional politics of contest and negotiations are the essential dynamics of federalism. Federalism, at the end of the day, encourages greater formalization of joint policy decisions and agreements between different levels and units of government.

Pakistan is considered to be a transitional democracy and an evolving federation undergoing teething problems. There is a greater room for the repositioning and realignment of public policy in line with the constitutional contours of multi-level governance inspired by a federalist paradigm. Multi-level public policies are required for multi-level governance. Two key questions need to be addressed by the public policy frameworks and processes under a federalist paradigm:

a. How can governments customize public policy to be adapted to specific contexts, avoiding the “one fits all” approach, and develop coherence among the diversity of sub national/regional/provincial characteristics and strategies?

b. How can governments identify, assess and address multi-level governance challenges in order to improve the effectiveness of public policies in decentralized contexts?

Continuous contest, institutionalized negotiation and quest for consensus-building for equitable inter-governmental relations can be the building blocks of a functional federal structure of Pakistan. Following are six indicative policy recommendations for the consideration of political and policy leadership at the federal and provincial levels to further strengthen the participatory federalism and decentralization in the country:

a. Appropriate steps to be taken to develop the institutional design and establish an independent secretariat of the Council of Common Interests (CCI) as provided by the 18th amendment. The CCI Secretariat should have equal provincial representation in the

functioning and management thereof.

b. Establish a Parliamentary Commission on Civil Service Reforms with representation from provinces to implement a pending recommendation of the Parliamentary Commission on Constitutional Reforms (PCCR) and initiate a constructive dialogue between Federal Public Service Commission and Provincial Public Service Commissions for comprehensive reforms in the civil service sector keeping in view the devolved environment and principles of provincial autonomy.

c. Inter-provincial mechanisms need to be developed on devolved subjects by creating interface between provinces for experience sharing and mutual learning on effective management of devolved subjects with special reference to the social sector.

d. Federal government needs to emerge as a 'coordinating government' facilitating the provincial governments to address regional and intra-regional disparities and create an enabling environment for equitable inter-governmental relations. Federal overreach on subjects devolved to provinces needs to be restrained.

e. Provincial governments need to review their Rules of Business and bring amendments therein to further devolve fiscal, policy and planning authorities to the district, tehsil and union councils through elected local governments. Provinces also need to address intra-province disparities by constituting Provincial and District Finance Commissions, ensuring fiscal equalization at the grassroots level.

f. A comprehensive coordination and communication mechanism on implementation and reporting on international agreements, treatise, protocols and covenants need to be established for a consolidated reporting at international fora.

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STATUS OF IMPLEMENTATION OF ARTICLE 172(3)

Ownership and management of natural resources has been a contentious issue in many federal systems. Similarly in Pakistan, ownership of natural resources has been a long standing source of conflict between the federal and the provincial governments.

A fundamental change ushered through the 18th amendment was providing the provinces equal ownership of mineral, oil and natural gas resources. Prior to the amendment, the federal government exercised an exclusive control over these natural resources and was governing institutional, regulatory, legislative and operational arrangements. However, a vital change has been brought about through the 18th amendment, whereby Article 172(3) has been inserted pursuant to which, ownership of oil and gas resources has been vested jointly and equally in the federal government and the relevant provinces. The revised Article 172(3) is a key provision concerning oil and gas ownership that states:

“172 (3): Subject to the existing commitments and obligations, mineral oil and natural gas within the Province or the territorial waters adjacent thereto shall vest jointly and equally in that Province and the Federal Government.”

The amendment in Article 172 has been made with the intent to make provinces more autonomous when dealing with transactions related to mineral oil and natural gas. Currently, there is no agreed policy and institutional framework that could bring the benefits of the amendment to the provinces. Provinces lack the capacity to tap the financial benefits arising out of joint control over petroleum resources. For this purpose, a phased programme is required to develop policy, legal and institutional framework which could enable federal and provincial governments to implement Article 172 in the spirit of the 18th amendment.

The National Mineral Policy was formulated in 2013 with a vision to increase the economic contribution of the mining sector to Pakistan's economy through more private investment and to ensure smooth operational and effective coordination between federal and provincial institutions in the implementation of the regulatory and legislative regime for the mining sector in light of the 18th amendment.

In 1993, Balochistan's caretaker Chief Minister granted exploration rights to BHP in Reko Diq. The agreement granted BHP 75 percent share in discoveries for the next fifty-six years. According to the agreement, the Balochistan Government would get 25 percent share on a joint investment basis and a mere two percent royalty. This agreement, after the insertion of Article 172 (3), is against the constitution. Subsequently, the Supreme Court of Pakistan in 2013 declared in an order, the joint venture as void. However, the international firm approached the International Centre for Settlement of Investment Disputes, citing a breach of contract and since then the Riko Diq project is in a conundrum.

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THE POST-18TH AMENDMENT FEDERALISM IN PAKISTAN



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OPINION

The year 2015 provides an opportunity for an evaluation of the 18th amendment after five years. The initial euphoria about it engulfed a large section of the population including the ethnic leadership, liberal intelligentsia and the civil society. It symbolized a giant leap forward in the direction of parliamentary sovereignty, provincial autonomy, representation of religious minorities in the Senate and an ethnic identity to Khyber-Pakhtunkhwa (KP). Scholarship about the new dynamics of federalism in Pakistan mushroomed, partly due to the interest of the donor community. However the amendment was also criticized for falling short of maximum provincial autonomy, non-transfer of a major part of revenue-raising authority and absence of administrative de-centralization.

The task of the implementation of the amendment ran into difficulties on various accounts. The process of the transfer of ministries to the four provincial capitals remained incomplete. Some new divisions cropped up in Islamabad to circumvent the devolution of power. Some ministries continued to operate in both the federal and provincial governments. The Council of Common Interests (CCI) was supposed to vigorously pursue the agenda of regional equity and alleviation of poverty, and act as a mechanism for resolution of conflicts between the centre and provinces. But, provinces continued to project their grievances such as the claim for the entitlement of Khyber-Pakhtunkhwa to cheaper energy as a surplus producer of hydal-power, demand for inclusion of subjects not covered by the 18th amendment such as electricity and reservations of Khyber-Pakhtunkhwa and

Balochistan about a surreptitious deal with China to change the Silk Route to bring Punjab on the map in a bilateral project of infrastructural development. The provision of joint ownership of mineral wealth by the center and the relevant province led to acrimony between the two sides about pricing and fixing the quantity of production of the commodity. Some 'points of iteration' of the political parties represented in the Parliamentary Committee for Constitutional Reform (PCCR), that could not become part of the consensus, continued to emerge from public platforms. These included declaring the languages of the four provinces as national languages; removal of an anomaly whereby MNAs from FATA and MPAs from PATA legislated for Pakistan and Khyber-Pakhtunkhwa respectively, but all other MNAs and members of the Khyber-Pakhtunkhwa assembly were barred from legislating for FATA and PATA.

A parallel concern was an emergent dichotomy between the devolution of power to provinces and the continuing pattern of the centralization of administration and finance in the absence of an agenda of civil service reforms. This meant giving by one hand and taking by the other. The civil bureaucracy—recruited, trained, posted, transferred, evaluated and promoted by Islamabad—has been running the provincial administration in the post-18th amendment period much as before. The bureaucracy operates at an all Pakistan level, rooted in an institutional ethos cultivated through a rigorous process of post-recruitment socialization. There has been a demand for a provincial civil service that would have a new mindset suitable for the regional agenda. However, such a move is nowhere on the horizon.

A major part of the federalist project in Pakistan related to the one-province-dominates-all situation, reflects the demographic preponderance of Punjab at 54 percent of the national population. To meet this anomaly, the 1973 Constitution provided a bicameral parliament, whereby the upper chamber Senate provides equal representation for all the provinces. However, the disproportionately high level of representation of smaller provinces is offset by the differential policy scope of the two houses of parliament in as much as the Senate has no authority over money bills. The 18th amendment made it mandatory to send all bills to the Senate for vote, even if it was not binding for legislation concerning the budget. Also, it made the provision for four Senators from minority communities. The 2015 elections for the

Senate made it clear that bicameralism as the way to constrain Punjab's majority and make Pakistan a balanced federation fell short of meeting its objectives. Although the Senate was conceived to be a forum for representation of provinces, it has become a representative of political parties, as a mere extension of the party strength in provincial assemblies through the PR-STV (proportional representation-single transferable vote) system. There is demand for reforms in the Senate election in the direction of list system, open ballot system and direct elections instead of the present two-tier elections, as well as transfer of budgetary powers to the Senate.

The 18th amendment strengthened the provinces and indirectly their majority communities—Punjabis, Sindhis, Pukhtuns and the Baloch. However, their respective minority communities—speakers of Siraiki, Urdu, Hindko and Pashto—felt grossly alienated. They called for new linguistic provinces in order to make the federation more balanced by bringing onboard the un-represented communities. But, the Punjab based ruling party Pakistan Muslim League-Nawaz (PML-N) and the state apparatuses of army and bureaucracy remain committed to status quo in this regard. Unlike India, the procedure for formation of new provinces in Pakistan is extremely difficult and not likely to allow provincial reorganization any time soon.

While the 18th amendment enjoined the provincial governments to hold elections for local bodies and establish self-government at the district and sub-district levels, in reality devolution of power downwards amounted to an act of omission on the part of PCCR. Contrary to lofty ideals about local government being a nursery of democracy, providing government at the doorstep, making citizens direct stakeholders in the system and ensuring political accountability at the grassroots level, local bodies have been pawns in the hands of civil and military governments. The latter directly legislated about it bypassing the provinces, empowered District and Union Councils by way of funding and electoral legitimacy, and thus rendered the constituency level party workers redundant. Province has traditionally operated as a citadel of power for politicians. While struggling for devolution of power from the centre, which is imbued with 90 percent of revenue-raising authority, control over civil bureaucracy, and near-monopoly over public policy, politicians feel insecure about devolving power to the district. Not surprisingly, local bodies election have

been postponed ad nauseum. What is needed is:

- Completion of transfer of power to provinces;
- Legislation for local bodies;
- Direct elections for the District Council to make it more representative, and;
- Holding party-based elections to integrate the locality with the province and the nation.

One can ask various questions to judge the efficacy of the post-18th amendment arrangement for the devolution of power: Has CCI been able to bring about a change in district ranking by poverty, given its mandate to establish regional equity? Has it successfully mediated between the centre and provinces on such issues as payment of arrears for Balochistan (per Article 161), water distribution through IRSA or ratification of international accords? While the 18th amendment pushed forward the program for devolution, the ideological frameworks of the 'establishment' and the provincial autonomists-cum-ethnonationalists remain as distant as ever. Indeed, the occasional rhetoric about a 'new social contract' often leads to speculation about a possible reversal of the 18th amendment. Such cynicism notwithstanding, the devolutionary federalism in Pakistan seems to be on course as it completes its fifth year of enactment.

“ *We shall work in accordance with the framework of the constitution and oppose any effort that will lead to the rollback of 18th amendment and the devolved subjects.* **”**

Abdul Raheem Ziaratwal

Provincial Minister for Information and Law

*Training of Inter-Departmental Focal Persons in Balochistan,
17-18 December 2013*

“ *For Pakistan, talent needs to be employed in underprivileged geographies for which it is important to figure out areas which are in desperate need of managerial initiatives. Budgeting and auditing capabilities of bodies at all levels of government need to be hugely invested in to promote transparency and accountability.* **”**

Hilton Root

Professor

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*International Conference on Participatory Federalism and Decentralization
25-27 September 2013, Islamabad*

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PARTICIPATORY DECISION MAKING AND INTER PROVINCIAL RELATIONS: Studying Five Years of The Council of Common Interests (2010-2015)



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It has now been about five years since the promulgation of the 18th constitutional amendment. The amendment brought various changes in the Constitution, aimed at, amongst others, on strengthening the parliamentary form of government and an empowerment of the provinces. The latter was achieved through the abolition of the Concurrent Legislative List. The amendment was also a leap forward towards strengthening the concept of participatory management.

The Constitution of the Islamic Republic of Pakistan 1973, provided three Inter-governmental fora-the National Finance Commission (NFC), the National Economic Council (NEC) and the Council of Common Interests (CCI). The composition of these fora comprised of representatives from the federal government and all the provincial governments:

- The NFC established under Article 160 of the Constitution was assigned the task of making recommendations to the President of Pakistan about financial resources sharing between the federation and the provinces.
- The NEC established under Article 156 of the Constitution had the responsibility of advising both the federal and the provincial governments on formulation of plans with respect to economic and financial policies and economic development.
- The CCI established under Article 153 of the Constitution was mandated to formulate and regulate policies with respect to matters in Part-II of the Federal Legislative List. The Council is also empowered to exercise supervision and control over related institutions. The concept of participative management is thus more pronounced in the case of CCI where the provinces have been given role in the purely Federal subjects. The Council under Article 155 of the Constitution could also hear the complaints of the federal government and the provincial governments regarding water rights of the respective government from any natural source of supply.

Despite this very important mandate of the Council, only eleven meetings of this body were held over the course of thirty seven years, since 1973 till the passing of the 18th constitutional amendment. It took the Council a span of eighteen years just to frame its rules of procedure at its fourth meeting held in January, 1991. Division of

water from the Indus, privatisation of WAPDA, utilities and other state owned entities were decisions of great importance made by the Council. Other matters discussed in the Council during that period were more general in nature and pertained mostly to law and order and other provincial subjects. These matters were not specifically related to the subjects mentioned in Part-II of the Federal Legislative List or Article 155 of the Constitution.

A number of changes were made through the 18th constitutional amendment in the composition, mandate and responsibilities of the CCI. Previously the Prime Minister could himself chair the Council or nominate any Federal Minister to head this body. The current situation holds that it is a constitutional requirement that this forum is headed by the Prime Minister. It has also been provided that:

- The Council shall be constituted within thirty days of the Prime Minister taking oath of office;
- The Council shall have a permanent secretariat and shall meet at least once in ninety days and;
- The Prime Minister may convene the meeting of the Council on the request of a province on an urgent matter.

The Council has also now been authorized to hear complaints regarding water rights from reservoir. Previously, this power was available in respect of water rights from any natural source of supply. A new clause has been added in Article 157 of the Constitution which provided that in case of any dispute between the federal government and provincial government with respect to any matter pertaining to electricity, any of the said Government may move the CCI for resolution of the dispute.

The list of subjects in Part-II of the Federal Legislative List has been expanded and ten new subjects have been added to it. The mandate of the Council now covers eighteen subjects.

Since after the 18th amendment, the Council has held sixteen meetings, the last of which was held on 18 March, 2015. The number of meetings indicates much improvement over the pre-amendment practice. This, however hardly meets the target of four meetings in a year. The situation looks more dismal if analyzed on the basis of constitutional requirement of meeting at least once in ninety days. There have been gaps of more than six to nine months between two subsequent meetings of the Council. Table 1 summarizes the meeting history of the CCI.

In the pre-18th amendment period, only 44 agenda items were discussed in eleven meetings. There has been improvement on this score in the post-amendment period when 105 agenda items were discussed in sixteen meetings. From an average of four items per meeting, the agenda increased to a little over six in post-amendment period.

The agenda items discussed in the first three meetings of the Council held in the mid-seventies pertained mainly to law and order and other provincial subjects and were not much related to the subjects mentioned in Part-II of the Federal Legislative List. There has been continuous improvement in this respect and the matters more pertinent to the mandate of the Council are being brought before it. There are, however, still a large number of matters that need to be

discussed in the Council before the federal government can take action on these matters.

Records reveal that no Council meeting was convened solely on the request of a province under clause (3) of Article 154 of the Constitution. In the 105 agenda items brought before the Council in the post-amendment period, only six of those were moved by the provinces. It appears that the provinces were not as pro-active as they should be in pressing the federal government to place the relevant matters before the Council for discussion. On a summary brought by the Province of Punjab regarding powers of a province to generate electricity, the CCI agreed to include and appropriate amendment in the power policy to bring it in line with the letter & spirit of clause two of Article 157 of the Constitution. Similarly, on another summary brought forward by the province of Punjab release of funds for population welfare programme was advised in line with the commitment of the federal government. Likewise, in the case of a summary brought about by Balochistan, appropriate amendments were advised in Gawader Port Authority Act to give 50 percent membership to Balochistan and that chairman of the Authority to be nominated by the Chief Minister of Balochistan.

A Permanent Secretariat of the Council as per constitutional requirement has not yet been established and the Inter Provincial Coordination Division is still assuming that role. This arrangement was provided in the Rules of Procedure of the Council approved in 2010 as an interim arrangement till the permanent Secretariat of the Council would be established.

Frequency of the meetings of the Council, if analyzed, indicates that the requirement of meeting at least once in 90 days could not be met whenever any political issue cropped up. Larger gaps between any of the two meetings of the Council occurred at the time of contempt of court proceedings against the Prime Minister, general elections and transition to the new government, extended sits in the capital and the Senate elections. Last but not the least, a lack of agenda items could also be a reason for this irregular meeting schedule.

CCI rulings

The number of agenda items brought before the CCI by the provinces has not been very large. However very important decisions came forth from the CCI on those matters, a few of which are quoted here:

1. Approval of Rules of Procedure of Council of Common Interests, 2010;
2. National consensus for construction of Diamer Basha Dam Project;
3. Rehabilitation of Flood Affected Areas;
4. Financing for the Organizations/Projects transferred to the Provinces;
5. Tight Gas (Exploration & Production) Policy, 2011;
6. Privatization of Power Sector Entities;
7. Clarification of Article 157 of the Constitution lifting bar on provinces regarding power generation, submitted by Govt. of Punjab;
8. Private Power and Infrastructure Board (PPIB) Bill, 2010;
9. Policy Guidelines for Power Generation through Small Independent Power Projects (SIPPs) below 50 MW Capacity;
10. Approval of Securities & Exchange Commission of Pakistan Bill;
11. Special Economic Zones Bill, 2011;
12. Regulation and Distribution of Zakat;
13. Co-financing of Citizens' Damage Compensation Programme-II;
14. Public Debt Management and Supervision Policy;
15. Annual Report of the Council of Common Interests (CCI) for the Year 2010-11;
16. Financing for the Population Welfare Programme; submitted by Govt. of Punjab;
17. National Science, Technology & Innovation Policy - 2012;
18. Petroleum, Exploration and Production Policy 2012;
19. Financial Autonomy of Indus River System Authority;
20. Approval of National Mineral Policy - 2012;
21. Annual Report of the Council of Common Interests for the year 2011-12;
22. Constitution of Standing Committee of CCI;
23. Working and Functioning of National Electric Power Regulatory Authority (NEPRA);

Table 1

Meetings of the Council of Common Interests held before passage of 18th Constitutional Amendment	
1 st meeting	August 7 – 9, 1975
2 nd meeting	December 27–28, 1975
3 rd meeting	December 31, 1976
4 th meeting	January 12, 1991
5 th meeting	March 21, 1991
6 th meeting	September 16, 1991
7 th meeting	September 12, 1993
8 th meeting	May 29, 1997
9 th meeting	May 9, 1998
10 th meeting	December 22, 1998
11 th meeting	August 6, 2006

Meetings of the Council of Common Interests held after passage of 18th Constitutional Amendment	
12 th meeting	July 18, 2010
13 th meeting	September 6, 2010
14 th meeting	November 8, 2010
15 th meeting	February 1, 2011
16 th meeting	April 28, 2011
17 th meeting	June 1, 2011
18 th meeting	August 27, 2011
19 th meeting	February 9, 2012
20 th meeting	August 8, 2012
21 st meeting	November 8, 2012
22 nd meeting	January 23, 2013
23 rd meeting	July 23, 2013
24 th meeting	July 31, 2013
25 th meeting	February 10, 2014
26 th meeting	May 29, 2014
27 th meeting	March 18, 2015

24. Renaming of Ministry of Professional and Technical Training as Ministry of Education and Trainings. submitted by Government of Sindh;
25. Equitable Distribution of Electricity;
26. Briefing on the Working Of Pakistan Railways;
27. Regularization of Lady Health Workers etc;
28. National Energy (Power) Policy, 2013-2018;
29. Legislations pertaining to Offences & Penalties Relating to Electricity & Gas Theft Control;
30. Amendment in the Petroleum Policy, 2012;
31. Inter-Provincial Transfers and Fiscal Discipline;
32. Annual Report of the Council of Common Interests for the year 2012-13;
33. The Pakistan Engineering Council (Amendment) Bill 2014;
34. Privatization of Lakhra Power Generation Company Limited - LPGCL (GENCO - IV);
35. Mechanism for at source deduction of outstanding power sector payables of Provinces;
36. Power Sector Reforms i.e. privatization of distribution companies;
37. Sixth Population and Housing Census;
38. Public Debt Management & Supervision Policy;
39. Pakistan Energy Efficiency & Energy Conservation (PEEC) Bill, 2014;
40. Amendment in the Code of Criminal Procedure 1898 for Restoration of Executive Magistracy;
41. Pakistan Vision 2025.

ENSURING RIGHT TO INFORMATION AND PUBLIC ACCOUNTABILITY: INTER-PROVINCIAL COMPARISONS



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Initiatives, (CPDI)

Right to information was accorded constitutional protection on April 8, 2010, after the insertion of Article 19-A in the constitution through the 18th amendment. Article 19-A read¹ "Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions". While Article 19-A provided constitutional cover to a right already acknowledged as a 'human right', only proper legislation and rules can effectively implement it in its true spirit. The big question then is: How does the right to information legislative landscape look like after five years down the road?

While the parliament holds the authority to legislate and amend the constitution, the Supreme Court of Pakistan has the power to interpret the constitution. Through the interpretation of Article 19-A and the disagreement of some, the Supreme Court gave a carte blanche-blank cheque-to the parliamentarians, to enact an effective right to information law. In his note to the detailed judgment in Constitutional Petitions 77 to 85/89 of 2011 (also known as the Memogate scandal)², what Justice Jawwad S. Khawaja wrote sounded as music to the ears of those who have been campaigning for putting in place an effective legal regime aimed at protecting citizens' right to information. The learned judge asserted, "...is an unfortunate facet of our history that during the 64 years since Pakistan's independence in 1947, the people of Pakistan have been, at times,

disserved by a non-inclusive governance paradigm where information critical to them has been withheld from them. At critical times in history, the people in quest of the truth have mostly been left with conjectures, rumours and half-truths. Concealment of information has, in turn, led to a distorted history of the country and to a destabilising division in the polity... Article 19-A has thus, enabled every citizen to become independent of power centers which, heretofore, have been in control of information on matters of public importance".

Notwithstanding the fact that the parliament and Supreme Court complement each other on citizens' right to information, the right to information legislative landscape in the country presents a discordant and inharmonious picture. Freedom of Information Ordinance 2002 and its many replicas such as the Balochistan Freedom of Information Act 2005 and Sindh Freedom of Information Act 2006, belong to the first generation of the right to information laws. As opposed to this, Khyber Pakhtunkhwa Right to Information Act 2013 and the Punjab Transparency and Right to Information Act 2013 belong to the second generation of the right to information laws in the country. The first generation of the right to information laws belong to pre-18th amendment era whereas second generation belong to post-18th amendment era. Does explicit constitutional protection to a right coupled with subsequent progressive interpretation of the right by Supreme Court contribute to the quality of the legislation? The answer is an emphatic yes when we juxtapose the second generation right to information laws with international standards of effective right to information legislation. Both Khyber Pakhtunkhwa Right to Information Act 2013 and the Punjab Transparency and Right to Information Act 2013³ meet all the standards of an effective right to information legislation such as maximum disclosure, minimal exemptions, obligation for proactive disclosure, process to facilitate access to information, minimum cost for the requested information, disclosure taking precedence over exemption and assisting the requesters. All first generation right to information laws are largely ineffective as these laws fall short of meeting these standards. Have second generation right to information laws contributed to public accountability?

Both Khyber Pakhtunkhwa and Punjab right to information laws have started contributing to public accountability for the attainment of basic rights. Common practices of using these laws are also being done by journalists for investigative reporting. A journalist has recently established how healthcare needs of the poor are being sacrificed on the altar of mega projects through the use of Punjab right to information law⁴. He submitted an information request under Khyber Pakhtunkhwa and Punjab right to information laws to all Executive District Officers in the health department of all districts of Khyber Pakhtunkhwa and Punjab seeking certified information about the total number of basic health units in the district, total number of sanctioned and vacant posts of doctors for all basic health units and certified information about the total number of sanctioned and vacant posts of doctors for each basic health unit. He contributed an investigative story to his newspaper based on certified information stating that doctors were not appointed in 619 basic health units in twenty-four districts of Punjab.⁵ Based on information received through the Khyber Pakhtunkhwa Right to Information Act 2013, he filed another story sharing that there were no doctors in 70 percent of basic health units in three districts of Khyber Pakhtunkhwa. Civil society groups have also started using these laws for public accountability and to ensure transparent functioning of public bodies. It is for the first time in the history of the country that the attendance record of the members of Punjab Assembly is now available on the Punjab Assembly web site, thanks to the right to information request filed by Centre for Peace and Development Initiatives (CPDI). Another civil society group established how the Khyber Pakhtunkhwa government ended up collecting 26 million at the cost of 33 million during the advertisement campaign for its "Tameer-e-School" project⁶. Last year, a citizen was able to get job which was being denied to him after having access to merit list by using Khyber Pakhtunkhwa right to information law.⁷

In the final analysis, it can be deduced from available empirical evidence that both Khyber Pakhtunkhwa and Punjab right to information laws have immense potential to be used for both public accountability and for the attainment of basic rights. However, civil society groups and respective information commissions in Khyber Pakhtunkhwa and Punjab will have to stay vigilant to protect and promote

citizens' right to information. While there are success stories of using these laws for public accountability, the available evidence also indicates resistance to the exercise of right to information under these laws through bureaucratic shenanigans. At the same time, there is a need for raising awareness about these laws at the grass root level. Finally, federal and provincial governments in Balochistan and Sindh need to repeal their right to information laws and enact new ones modeled on the Punjab Transparency and Right to Information Act 2013 and Khyber Pakhtunkhwa Right to Information Act 2013.

“Political and fiscal federalism is essential to strengthen democracy and promote development in Pakistan. In a country with such diversities, there cannot be a single benchmark to measure development. The federal system possesses an inherent flexibility, enabling us to find solutions to the unique problems of each province.”

Dr. Abdul Malik Baloch

Chief Minister Balochistan

Training of Inter-Departmental Focal Persons in Balochistan,
17-18 December 2013

“The 18th amendment, through CCI has given the provinces the right to be heard. CCI embodies the emergence of spirit of cooperative federal culture in Pakistan.”

Shahzad Iqbal

Former Senior Joint Secretary

Ministry of Interprovincial Coordination

Course on Federalism,

22-26 November 2013, Islamabad

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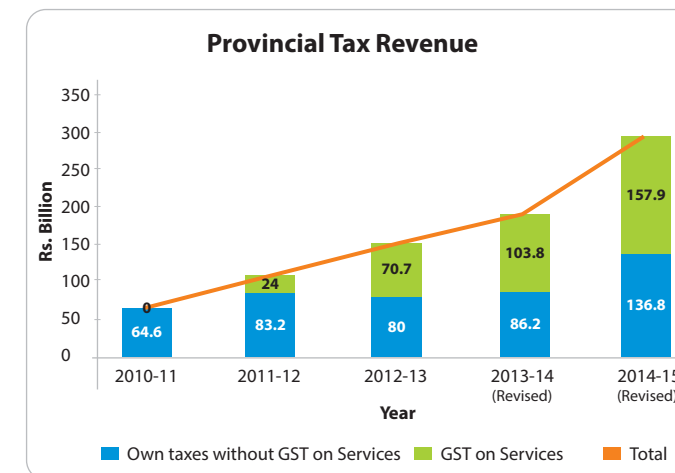
HARNESSING GENERAL SALES TAX ON SERVICES: SINDH SHOWS THE WAY



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An extremely low share of the provinces in the total revenue of the country has been a persistent feature. Before the 18th amendment, it was 5.3 percent in 2010-11. It doubled to 10.7 percent in 2013-14. The difference was the provincial collection of the General Sales Tax (GST) on services, led by Sindh. The following figure shows the trend of rapidly increasing revenue from this source. Indeed, the revenue from GST on services alone is larger than all other provincial taxes. This seems to have positively influenced the budget estimates of other provincial taxes as well for the fiscal year 2014-15.



Source: Provincial Budget Documents 2010- 2015

The GST is the largest source of tax revenue in Pakistan. Its share in the total tax collection is around 44 percent, with about one-third originating in services. The country inherited a sales tax in 1947 that was in the provincial domain, but it was leviable on goods only. Sales tax on services did not exist at the time of independence. Initially, the collection of this tax was entrusted to the federal government and then the subject was transferred in 1951. The collection was with the Income Tax Department for the next three decades. In 1981, it became the responsibility of the Customs and Excise Department. Sales tax on imports, however, was with the Pakistan Customs throughout. In 2009, sales tax became part of the new department of Inland Revenue.

In 1971, the question as to who would be empowered to tax the sale of services became a bone of contention, when the federal government began to impose excise tax on some services. In the 1973 Constitution, however, it was clear that the sales tax on services fell in the provincial domain. Clause (3)(ii) of Article 1601 related to the distribution of revenues between the federation and the provinces under the National Finance Commission (NFC) referred to “taxes on the sales and purchases of goods imported, exported, produced, manufactured or consumed.”¹ In the fourth schedule specifying the Federal Legislative List referred to in Article 70(4), Part I contained entry 49 on “Taxes on the sales and purchases of goods imported, exported, produced, manufactured or consumed.”² There was no mention of services. What was not specifically federal fell, as per the Constitution, in the provincial domain. The issue came to a head only in 2000 when the donors prescribed the value added mode for Sales tax and in lieu of some excise duties. This mode, it was argued, required integrated taxation of goods and services. The provinces were then made to legislate the Sales Tax on services and delegate the power to collect to the Federal Board of Revenue (FBR). Excise duties continued on services included in the Federal List.

The Constitution (18th Amendment) Act 10 of 2010 added the words “except sales tax on services” to entry 49 to make the distinction explicit.³ Articles eight of the 7th NFC Award reflected the same specificity: NFC recognizes that sales tax on services is a Provincial subject under the Constitution of the Islamic Republic of Pakistan, and may be collected by respective Provinces, if they so desired.”⁴ Even after the amendment, the federal government asked the provinces to let it to continue collecting the GST on services to facilitate the imposition of a refined GST in the value added mode. The federal government, in particular the FBR, doubted whether the capacity to collect, existed at the provincial levels. The response of the provinces varied. Sindh took the lead in saying no. Punjab first dithered, but Sindh's success forced it to opt out after two years. The KPK and Balochistan are now taking steps to join the club.

To respond to the capacity issue, the government of Sindh quickly passed the Sindh Revenue Board Act, 2010 to create a new autonomous body rather than rely on the existing revenue collection departments. The Sindh Sales Tax on Services (SST) Act was passed in 2011 and made effective from the fiscal year 2011-12. Telecommunication services were taxed at the highest rate of 19.5 percent i.e. above the standard rate of sixteen percent. Under an agreement, the Sindh government would share information with the FBR to enable the latter to make input and output adjustments and the former to be liable for refunds that might be necessary. There has been a phenomenal success in collection since then. Before the devolution in 2009-2010, the FBR collected a mere Rs seven billion on behalf of Sindh. In 2010-11, when SST on services was collected by the FBR at the standard rate of seventeen per cent, the transfer Sindh amounted to Rs 16.6 billion. Assuming collection under a reduced standard rate of sixteen percent in 2011-12, the SRB collected a higher amount of Rs 24 billion. With no change in base or rate, a higher target of Rs 32 billion was fixed for 2012-13 and overachieved by collecting Rs 33.7 billion. The SRB has set itself a target of Rs100 billion by 2016-17. These accelerated collections have made the SST on services the largest single revenue spinner for the province. Autonomy, a client-centered approach, an efficient online system and effective monitoring and surveillance, seem to have paid rich dividends.

Looking at the success of Sindh, the Punjab Revenue Authority (PRA) started to collect sales tax on services from the fiscal year 2012-13 at

the same standard rate and the higher rate for telecom. Telecom and non-telecom ratio at 75:25 is high. Lower rates are offered as tax baits to expand the tax net and reduce dependence on telecom. Against the receipt of Rs 22 billion in 2011-12 from the FBR, the PRA was able to collect Rs 37 billion in 2012-13. Encouraged by this jump, the target for 2013-14 was nearly doubled to Rs 62 billion. The collection was Rs 52 billion. It was below the target, but 41 percent higher than the previous year. While FBR's changes in income tax withholding rates and stagnating telecom sector played its role, the real reason for the under-achievement was that the government of Punjab has not invested in PRA as much as the government of Sindh did in SRA. It is less autonomous and the number of taxed services is smaller than Sindh. Still the returns are much higher than the pre-amendment arrangement.

The smaller provinces of Khyber Pakhtunkhwa (KPK) and Balochistan are only beginning to look at the new opportunities to tax services. The KPK Provincial Revenue Authority (KPPRA) has been established. It initiated a sales tax survey in March 2014 in selected districts to assess the tax base. In Balochistan, the federal government continues to collect GST on behalf of the province. Work on setting up the Balochistan Revenue Authority has been initiated. The two provinces have added the new budget lines related to the sales tax in services.

The following table gives a comparative picture in terms of the latest provincial budgets. As noted earlier, the Sales Tax on Services has emerged as the largest single source of Provincial revenue. This is only the beginning. A similar zeal to collect Agricultural Income Tax and Property Tax will significantly contribute to a lower national fiscal deficit, reduce dependence on transfers from the Federal Divisible Pool, expand their own development programmes and devolve power and authority further down to the local level.

Sales Tax on Services: A Comparative Picture (Rs Billion)

Province	2013-14 (Revised)	2014-15 (Budget)	Sales Tax on Services as % of Total Provincial Own Revenue: 2014-15
Sindh	42.0	49.0	45.8
Punjab	52.0	95.0	57.6
KPK	8.0	12.0	61.5
Balochistan	1.8	1.9	76.0

Source: Provincial and Federal Budget Documents, 2014-15.

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3. Ibid., p.204.
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Traditional Sindhi products

A STEP TOWARDS FISCAL AUTONOMY



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The year 2010 saw two landmark developments that changed the character of the Pakistani state. One such development was the passage of the 18th amendment to the Constitution, which accorded a large measure of political autonomy to the provinces and established Pakistan as a genuinely federal state. The other event was the 7th National Finance Commission (NFC) Award, which accorded a large measure of fiscal autonomy.

In terms of political autonomy, the abolition of the Concurrent List implied that all subjects therein—nearly 50—were now exclusively in the provincial domain and provisions, such as Article 172(3), placed critical natural resources areas such as oil and gas as “joint and equal” federal-provincial subjects. In terms of fiscal autonomy, the provincial share in the Federal Divisible Pool expanded to more than 50 percent and the transfer of General Sales Tax (GST) on services to the provinces (in accordance with constitutional provisions) provided the provinces with autonomous sources of finances and enlarged the provincial fiscal base.

The NFC is a constitutional nine member body, constituted by the President, and comprises of the Federal Minister of Finance as Chair, four Provincial Ministers of Finance, and one non-statutory member from each province. The latter is generally a person with some technical competence in public finance and fiscal decentralization issues. The term of each NFC is five years.

“Governments and donor community should look at ways to strengthen the gains from the 18th amendment. The first-generation of reforms has started the devolution process in Pakistan and it needs to be strengthened in the next five years.”

History of NFC

The first NFC was constituted in 1974 and the seventh in 2009. Not all Commissions were successful in arriving at an Award as shown below. The 7th NFC was unique in the sense that it moved away from a single criteria—population—horizontal distribution formula and adopted a multiple criteria formula, encompassing population, revenue, backwardness/poverty and area; with area represented by inverse population density.

Overview of NFC Awards

Number	Name	Status
First	NFC Award 1974	Conclusive
Second	NFC Award 1979	Inconclusive
Third	NFC Award 1985	Inconclusive
Fourth	NFC Award 1991	Conclusive
Fifth	NFC Award 1995	Inconclusive
Sixth	NFC Award 1997	Conclusive
Presidential Order	Distribution Order 2006	-
Seventh	NFC Award 2010	Conclusive

The 1974 Award included Income & Corporate Tax, Sales Tax and Export Duties in the Federal Divisible Pool; wherein, the vertical federal-provincial share was 20:80. The 1991 Award included Central Excise Duty to the Federal Divisible Pool and retained provincial share at 80 percent. The 1997 Award expanded the Federal Divisible Pool further by adding Import Duties and other Direct Taxes and reduced the provincial share to 37 percent. The 2006 Presidential Distribution Order raised the provincial share to 47.5 percent and the 2010 Award raised it further to 56 percent for 2010-11 and 57.5 percent for the remaining years of the Award.

Understanding the 7th NFC

As stated above, the 7th NFC Award adopted a multiple four-point criteria for horizontal distribution between the provinces. Population and area shares were straight forward; however, computation of the backwardness/poverty and revenue criteria did present problems. With regard to backwardness/poverty, there existed a number of overall, rural and urban backwardness/poverty estimates, using somewhat different variables and methodology which ranked provinces differently. Understandably, each province desired the estimate which favoured it the most. With regard to revenue, there was the choice of using revenue collection or revenue generation. Each provided a vastly different inter-provincial ranking.

The issues were contentious, however, the Commission members resolved the matters as follows. With regard to backwardness/poverty, it was decided to take the simple average of estimates of three backwardness/poverty studies. With regard to revenue, it was decided to use provincial electricity consumption as a proxy for revenue generation and the revenue criteria was determined as a simple average of the revenue collection and electricity consumption shares. The weights for each of the four criteria were fixed as follows:

Criteria	Weights
Population	0.820
Revenue	0.050
Backwardness/Poverty	0.103
Inverse Population Density	0.027

Based on the above weights, the provincial shares were established as follows:

Provincial Shares (%)				
Criteria	Punjab	Sindh	Khyber-Pakhtunkhwa	Balochistan
Population	57.36	23.71	13.82	5.11
Revenue	44.00	50.00	5.00	1.00
Backwardness/Poverty	23.16	23.41	27.82	25.61
Inverse Population Density	4.32	7.18	6.51	81.99
Provincial (Horizontal) Share	51.74	24.55	14.62	9.09

The reformulation of horizontal shares by virtue of multiple criteria meant that Punjab's share was reduced from 57.36 percent to 51.74 percent, Sindh's share rose slightly from 23.71 percent to 25.55 percent, Khyber-Pakhtunkhwa's share rose slightly from 13.82 percent to 14.62 percent and Balochistan's share rose substantially from 5.11 percent to 9.09 percent. Additionally, Khyber-Pakhtunkhwa also received one percent of the total Federal Divisible Pool on account of damages in the war on terror. Sindh also received 0.66 percent of the total Federal Divisible Pool in lieu of loss on account of the now abolished Octroi and Zila Tax (OZT).

Punjab's loss on account of the change from single to multiple criteria was compensated by the increase in vertical transfers, i.e., the raise of provincial share from 47.5 percent to 57.5 percent; of which Punjab was the major beneficiary, given that it still commanded the largest share of 51.74 percent. Overall, the major gain for Punjab and Sindh was in terms of the provincialization of GST Services. If added to the share from the Federal Divisible Pool, Sindh's overall share, for example, rose to 26 percent. Apart from the strengthening of provincial own source revenue base, provincialization led to significant increases in revenue collection. In Sindh for example, revenues from GST Services rose from Rs. 15 billion (collected by the Federal Bureau of Revenue) to Rs. 25 billion (collected by the newly-established Sindh Revenue Board) in just one year. Khyber-Pakhtunkhwa and Balochistan did not gain from provincialization of GST Services, as its tax base is rather small.

Politics of resource distribution

Resource distribution is always contentious. And the single criteria horizontal distribution formula remained disputed by three of the

smaller provinces. Punjab insisted on retaining the single criteria—population—and Sindh, Khyber-Pakhtunkhwa and Balochistan demanded a multiple criteria formula. The 1991 and 1997 Awards were concluded successfully because the federal government agreed to add tax bases to the Federal Divisible Pool, which raised revenue receivables by all the provinces. However, the demand for a just distribution formula remained a political issue and which was a divisive factor in national politics.

The 7th NFC awarded was unanimously accepted as being fair and has, along with the 18th amendment, emerged as a force for cementing national unity. Two factors were important in its success. One, the Commission changed track—as proposed by Sindh—and dealt with horizontal distribution issues first instead of the vertical distribution formula, as was done earlier. And two, the Federal Minister of Finance committed to compensate any province—in this case Punjab—via enhanced vertical transfers for any loss from the shift from single to multiple criteria. The two factors removed any cause for discord.

The NFC negotiations process was intense and lasted for over 5 months. It goes to the credit of all the members who displayed professionalism and to the fairness displayed by the Federal Minister of Finance and the Federal Secretary Finance that at no stage of the proceedings were accusations made or tempers raised. The professionalism and cordiality with which the Accord was arrived at, is a testimony to capacity of the political system to deliver—and deliver efficiently—if allowed uninterrupted play.



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THE CIRCULARITY OF PUBLIC POLICY REFORMS IN PAKISTAN: THE CASE OF THE 18TH AMENDMENT



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On almost all counts, the 18th amendment to the Constitution of Pakistan represents the greatest political achievement since the framing of the Constitution itself. Whether examined in terms of its significance for public policy, the scope of its content, the inclusiveness of approach or potential impact on the rights and lives of citizens, the amendment is a rare example of how consideration for public good can overpower the perfidious nature of typical political practice. In clearly delineating functions, powers and responsibilities of the federation and the federating units, the amendment provides a framework for bringing about improvements in governance, balancing inter-governmental relations and enriching the sphere of citizens' rights.

Five years on, has the amendment delivered?

As with most questions on public policy in Pakistan, there are no cut and dry answers. As a nation, we have relentlessly demonstrated a proclivity for revisiting and redefining what were considered to be defining moments in our history. It is unfortunate that we are debating which way the 18th amendment has veered, when we should have been celebrating its unequivocal success. The beginnings were very positive: this was after all a unanimously agreed public policy reform that cut across all manner of political divide; it was the handiwork not of a military dictator pursuing personal agendas but of a democratically elected government putting paid to a long standing, shared political agenda of achieving balance of power within the Federation; its intent was

neither cloaked in questions of legitimacy nor its discourse circumscribed by atypical political skulduggery and populist pandering; it successfully rid the Constitution of the many anomalies and distortions that years of dictatorship had introduced and eliminated grey areas such as the Concurrent List that blurred the lines of responsibility and accountability; the process of framing the amendment was unusually inclusive for a process of political engagement, with more than 77 meetings and calls for public opinion. The resulting changes introduced in 97 Articles achieved as close a fit with the original spirit and intent of the 1973 Constitution as was perhaps possible. These changes are broad in scope, complex in detail and game-changing in their implications, altering the way government does business and the business government does.

We are all privy to Pakistan's unimpressive record on implementation and the case of the 18th amendment is no different. But it's less the lack of linearity of the path of implementation as it is the manner in which it has bumped off track. The usual suspects of absence of requisite institutional capacity and of the bureaucracy holding the greater public good hostage to personal agendas and petty turf-wars, readily surface in diagnosis. And although another common culprit—lack of political will—does not apply in this case since it was political will itself that realized the ideal of the amendment, the circuitous trajectory it has followed since the amendment was passed, certainly is.

From the onset, it was evident that while the amendment was passed unanimously, reflected a collective political vision of a stronger federation and attended to the long standing demands for provincial autonomy voiced by several major political parties, there was considerable variation in both the extent of political and bureaucratic leadership provided for this reform and the systemic capacity to follow through on key elements of the amendment such as the expanded policy function that now resided within provincial responsibilities. Some, like the Khyber Pakhtunkhwa administration, were at the forefront of strategically planning for the review of business processes and the political commitment appeared to be stronger than that in other provinces. Others like Balochistan were left scurrying for ideas on how to plug the fiscal gaps that were about to widen with the broader operations and development agenda left in

the amendment's wake.

As may be expected with a reform of the scale and scope of the amendment, these issues are compelling but not insurmountable; they merit both short and medium term solutions, but do not appear to lay a burden which either the federal government or provinces could not bear. The real problem, which seethes beneath the veneer of operational challenges, is how the public policy space in Pakistan is consistently compromised by its circularity. In other words, the problem lies not with the direction of policy but with the unerring tendency to reopen closed issues, revisit settled ones and returning to ground zero. This lack of forward movement and the habit of changing signposts mid-journey complicates the implementation of major reforms.

It is important to understand the triggers of this systemic fault. First, there is the vacillation motivated by the blatant lure of short-term political gains. For example, no sooner had the euphoria over the first democratic transition in the wake of the 2013 elections faded, that the newly elected government of Pakistan Muslim League (Nawaz) formed a committee to review the 18th amendment. This caused considerable controversy and criticism was heaped on the government from all quarters, not least from the Pakistan People's Party (PPP) who led and brokered the amendment, especially by PPP Senator Raza Rabbani, the Chairman of the Committee which authored the amendment. Although the 'official' stance was that the committee formed was to review only 'anomalies', provinces were understandably concerned. Having made budgetary, administrative, legal adjustments, there were fears that given the strength of the ruling party in Parliament, the amendment could be altered substantively, including returning the health and education sectors—which make up the bulk of government servants—to the federal government, a move also supported by some development partners.

Second, the confluence of interests of the political-bureaucracy nexus resulted in the establishment of ministries at the federal level such as the Ministry for National Food Security and Research and Ministry of National Health Services, Regulation and Coordination. Both the legality and legitimacy of these organizations is questionable, for these are assigning the

federal government with responsibilities and functions in subject areas devolved under the 18th amendment. These moves appear to encroach on provincial powers in the guise of better national level planning and coordination, despite the existence of a separate Ministry for Inter Provincial Coordination and a Ministry of Planning, Development and Reform meant for this very purpose. Indeed, the drive to protect bureaucratic turf is as predictable as its effects are pernicious.

Third, the recalibration of political and bureaucratic power that the amendment sought to foster went beyond just administrative and policy making functions. Changes in functional responsibilities altered fiscal inter-governmental relations too. Combined with the 7th National Finance Commission Award—which shifted resource allocation in favour of the provinces—and the provisions of the amendment relating to joint ownership of natural resources, there was a strong case for aligning tax assignment with functional assignment and for ensuring more inclusive natural resource governance. Neither has happened. Indeed, there is simmering consternation in the provinces over the recent move by the Ministry of Petroleum and Natural Resources to offload 10 percent Ordinary Shares of the Oil and Gas Development Company Limited (OGDCL) without consulting the provinces. Moreover, the Federal Board of Revenue's continued dismal performance in improving tax administration and widening its tax base should have resulted in stronger accountability for results and for entrusting provinces with greater revenue collection responsibilities. Although

federal agencies are quick to provide anecdotal evidence of absence of capacity at provincial levels, evidence is to the contrary: in Sindh for example, after the devolution of the Sales Tax on Services, collections have risen from the Rs eight billion per annum that the Sindh Revenue Authority inherited in FY2011 from the Federal Board of Revenue, to Rs 45.5 billion in FY2014.

However, it would be unwise and unfair to characterize the federal political and technocratic bureaucracies as the sole culprits for weak implementation of the reforms under the amendment. Intra-provincial civil-political relations have hampered implementation for reasons similar to those at the federal level, while low emphasis on a policy-driven sector based approach as opposed to a 'departmental' approach have circumscribed improvements in policy making and in service delivery. Equally telling is the reluctance to establish empowered local governments as envisaged under Article 140A of the Constitution. Although one of the criticisms of the 18th amendment relates to its stopping short of declaring local administration as a formal third tier of government, what is even more disappointing is the roll-back of local governance reforms, leaving local administrations, particularly in Punjab and Balochistan practically as little more than district and town based extensions of provincial departments. This is not only at odds with the provisions of the amendment (Article 140A calls for robust, independent and politically led local governments); runs against the grain of the spirit of the amendment which envisages

decentralization to cascade to all levels of government; and puts at risk improvement in quality, access and accountability of social services.

Last but not least, the amendment sought to arrive at a more equitable relationship between citizens and the state. By including the right to information and to education as a fundamental right, the amendment aimed at empowering citizens and lay the foundations of a more accountable, transparent government. However, practice betrays the intentions, as there is an across the board low citizen-focus—the Khyber Pakhtunkhwa government providing some exceptions through efforts to introduce a robust Right to Information Act and a Community-Driven Local Development Policy. Inclusion as evidenced by more informed planning and oversight that takes into view the aspirations, concerns and needs of citizens remains elusive, while political discourse remains strait-jacketed in traditional patron-client relationships. The growing chasm between the state and the public it ostensibly serves is thus not a surprising outcome. Investing in building citizens' voice and enhancing the understanding of citizens' rights as enshrined under the Constitution are thus central to raising demand for change.

As this analysis has attempted to highlight, Pakistan's policy reforms need to be left to run their course. Or else run the risk of spluttering the country towards an inchoate future.

PROVINCES MUST ACT TO COMPLETE THE 18TH AMENDMENT



Nargis Sethi

Former Secretary Cabinet

All political parties which contributed in the passage of the 18th amendment to the Constitution of Pakistan considered it a great achievement and were rightly jubilant when it was approved. The spirit behind the amendment was a democratic desire to empower and enable the people of Pakistan to articulate policy and take decisions which would make them masters of their own destiny. Somehow after almost five years of its approval, this still remains a distant dream. A most significant Article 25-A was inserted in the Constitution, making the state responsible for providing free and compulsory education to all children between the ages of five and 16 years of age. The sad reality is that there are 25 Million children who are still out of school yet¹ the provincial governments have not moved forward with reference to legislation and drafting of rules to ensure compliance of this very important constitutional provision. The general state of governance in Pakistan is far from even satisfactory. Pakistan is lagging behind on achievement of the eight Millennium Development Goals (MDGs)² which are to be met by 2015 only. These pertain to eradication of poverty and hunger, health, education etc. which have a direct linkage with the quality of life of the people at large, which has not improved in terms of quality from any standard. In fact, things have gotten worse and life has become even more difficult for an average Pakistani. Even if the 18th amendment was able to achieve some success, then the conversation regarding the implementation of this amendment could have been somewhat positive.

A large number of our children are still out of schools, basic health facilities are in bad shape, toilet facilities are not available and a large percentage of our population does not have access to clean drinking water. Thus our future generations can only hope and pray for a healthy and prosperous life. When powers were devolved from the federal to the provincial level, there was this expectation that the people would have more ownership and control over their own destiny. There was this desire that after the need assessment, the allocation of resources pertaining to development projects as well as their implementation would be through debate and discourse at a level where these were badly needed and not by decision makers in an insular manner without any regard to the actual problems faced by the people on the ground.

The 18th amendment has undoubtedly been a much needed way forward towards the involvement of people in their affairs but somehow the provincial governments have not helped in the realization of this in any manner. In fact, the provincial setups have

acquired more resources through the devolution of powers from the centre and these resources are ironically being used for the benefit of only those who are living in big urban centres. The gulf between the 'haves and the have nots' has widened due to an uneven development route being planned without any consideration to the priorities of different regions in the country.

It is ironic that all those who approved the 18th amendment despite being in control of all provincial matters, are not willing to devolve or share powers and resources down the line with their own people. The centralization of powers at the provincial level is not in line with the spirit of the 18th amendment. The implementation of this for the first few years remained very difficult due to the fact that even though it was approved, the ministries, departments and other entities at federal level created all kind of obstacles in the actual devolution of powers of these entities to the provinces. This resulted in an aggravation of the problems of the people. A calculated debate was also initiated by the vested interests as to whether the 18th amendment was well thought out or not. This was done to sabotage the outcome of this very positive amendment to the Constitution. When the 18th amendment was approved, this important aspect somehow got unintentionally over looked. It would have been better if an article at an appropriate place could have been inserted in the Constitution to make sure that powers were further devolved from the provinces to districts and sub divisions by a certain deadline. This could have ensured effective implementation of the 18th amendment and devolution of powers to the grass roots levels. There is a direct relationship between the 18th amendment and local bodies' elections. The fact that the political governments in the provinces have not agreed to holding of these elections also casts doubts on the intentions of all those who are in power in the provinces. It is strange that all those who supported the 18th amendment have not deemed it appropriate to push for elections at the local level which would make sure that the people genuinely get a chance to contribute in decision making. It has been very disappointing to see that politicians at the provincial level would like to keep their hold on a number of development and municipal entities through appointment of non-elected representatives and have unfortunately somehow raised the level of municipal functions to provincial levels. A number of areas like the construction of play grounds, and parks and solid waste management systems are still being managed by the provincial setups. Hence, there is no input of local people in these areas in the absence of local bodies.

Presently, it looks as if the political forces and civil bureaucracy are not very inclined to give up their powers and are in some kind of unwritten agreement, according to which, powers may not be devolved to an extent where their role becomes less significant. The justification for this comes from the view that the lower rungs of the political leadership are not qualified or educated and also lack experience to run their affairs. The civil bureaucracy which is always held responsible for poor governance in the country must realize that the challenge can only be met if it learns to co-exist with the local political leadership.

Before the 18th amendment the most important forum for decision making was the Federal Cabinet. There was this expectation that the passing of this amendment would make the Council of Common Interests (CCI) a more dynamic body because it is a forum where all the federating units participate and contribute in matters having implications for the whole country. So far, this has not happened and CCI has not been meeting regularly, hence on a number of issues like the spread of polio and development projects to name a few, consensus is nonexistent which is not good for the country. The Prime Minister of Pakistan is the chair of the CCI post the 18th

“A strong and active civil society tends to underpin effective and responsive local governments through local engagement.”

Berend De Groot

Councilor

European Union Delegation to Pakistan

International Conference on Participatory Federalism and Decentralization

25-27 September 2013, Islamabad

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amendment and it is generally expected that he should play a more proactive role. Whenever he feels that the federating units are failing to deliver in their areas of responsibilities he can always convene a meeting to discuss issues and find a way forward. After all, the CCI is a formal forum available under the Constitution for issues requiring national consensus. We see an All Parties Conference being convened all the time to reach an agreement, however, the best way to do it would be through available legal forums in an institutional manner.

The debate on the lack of the successful implementation of the 18th amendment has remained restricted to trivial and small issues such as the federal government not devolving certain departments and functions, whereas the issue is much larger, requiring a serious and comprehensive reflection by the political forces on the outcomes and results of the 18th amendment and only this can help them to have a focused direction and effective implementation of this landmark amendment.

“18th amendment was a great milestone as it restored the parliamentary and federal character of the Parliament and marked a paradigm shift from an overreaching center to strong and stable provinces by abolishing the Concurrent Legislative List.”

Senator Raza Rabbani

*Training of Inter-Departmental Focal Persons in Balochistan,
17-18 December 2013.*



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THE 18TH AMENDMENT, FEDERALISM AND ETHNIC POLITICS IN PAKISTAN



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This year marks the fifth anniversary of the passage of the 18th amendment and provides an appropriate opportunity to evaluate its progress and achievements to date. The 18th amendment marked the most important step in the direction of establishing a genuinely federal state in Pakistan. Following the passage of this amendment, there have been significant transfers of administrative, political and financial powers from the center to the provinces. For the first time in the history of the country, a comprehensive process of devolution and decentralization is underway. This article attempts to briefly analyze the impact of the 18th amendment on ethnic politics and the center-state relations in Pakistan.

Federalism is one of the most important institutions that is considered to be central to the management of ethnic conflict in any modern state. For post-colonial divided societies like Pakistan, federalism presents great potential in helping to manage conflict between various ethnic groups and their relations with the state. What makes federalism so useful in managing conflict in heterogeneous societies is its ability to confine and quarantine conflicts at the local level. Moreover, by creating autonomous governments at the regional level, it provides another platform at which inter-ethnic bargaining and negotiations can take place.¹ In light of these theoretical observations, it will be intuitive to expect the successful management of ethnic conflict in Pakistan considering the long history of federalism in Pakistani constitutional imaginations.

But the history of Pakistani federalism and ethnic politics presents a different picture. Since its creation, Pakistan existed as a centralized state where the state managers persistently refused to accept the demands for autonomy made by various ethnic communities. From the beginning, Pakistan saw the expression of discontent from the majority Bengali and minority Sindhi, Balochi and Pushtun communities who felt marginalized at the hands of a Muhajir-Punjabi (migrant-Punjabi) dominated power structure. Unlike the neighboring state India, where the Nehru government conceded to the demands of ethnic leaders by engaging in linguistic re-organization of the state, the Pakistani state made no such efforts to reach out to the alienated ethnic groups. In Pakistan, religion was used as a building block of state nationalism and any demands made through ethno-linguistic mobilization were suppressed.² Such centralizing policies brought out strong reactions from ethnic majority and minority communities across the country resulting in the emergence of new ethno-nationalist parties, agitational politics and militarized violence. For the ethnic communities demanding autonomy and decentralization, their inspiration was drawn from the 1940 Lahore Resolution with its declaration to establish 'independent and autonomous states in Muslim majority provinces' as promise of confederation-like arrangements in the future state of Pakistan.³ But the Pakistani state remained extremely centralized with the adoption of administrative measures such as the 'One Unit'. Such measures of centralization failed to manage the ethno-nationalist mobilization by the Bengali nationalist Awami League as it evolved from a movement demanding autonomy to separatism within the span of two decades leading to the dismemberment of Pakistan in 1971.

The post-civil war constitution of 1973 established de jure ('concerning law') federalism in Pakistan. It led to the acceptance of de-facto linguistic identification of territorial units as Punjab, Sindh, North West Frontier Province (NWFP) and Balochistan were identified with their respective dominant ethnic communities. However, beyond de jure recognition of provincial autonomy, the 1973 constitution failed to change the centralized character of the state. There was no transfer of powers to the provinces. Even in the presence of federalism-enhancing institutions like the Senate and Council of Common Interests

(CCI), the Pakistani state continued to operate in a centralized fashion. All of this has finally begun to change with the 2010 18th amendment. The 18th amendment has attempted to convert the de jure provincial autonomy granted in the 1973 constitution into de facto decentralization by transferring more than forty subjects to the provinces. For the first time in its history, the Pakistani state has begun to transfer key powers to provincial governments.

A crucial consequence of the process of devolution that followed the passage of the 18th amendment has been the empowerment of local ethnic majorities within their respective provinces. The ethnic majorities within each province welcomed the transfer of powers connected with the 18th amendment. But this had the negative effect of alienating ethnic minorities in these provinces. After the passage of the 18th amendment, the ethnic minorities in three provinces, i.e. Hindko-speakers in Khyber Pakhtunkhwa (re-named from North Western Frontier Province through the 18th amendment), Seraikis in Punjab, Muhajirs in Sindh and Pushtuns in Balochistan all expressed a variety of responses displaying their discomfort at the empowerment of provincial governments dominated by ethnic majorities. The passage of the 18th amendment has been followed by demands to create three new provinces out of Punjab and Khyber Pakhtunkhwa (KP). In addition, the Balochi Pushtun parties such as Pakhtunkhwa Milli Awami Party (PKMAP) lobbied for the creation of a new Pushtun province made up of areas in Balochistan and KP during the negotiations for the finalization of the 18th amendment.² In KP, following the change in the name of the province, the minority Hindko-speakers started a campaign to create a separate Hazara province. Led by Baba Haider Zaman, this movement has continued since the original agitation of 2010-2011. Though the 2013 elections failed to show any electoral support for this movement, the demand for bifurcation of KP is still strong. In a sign of the linguistic divide that exists in KP between Pushtun and Hindko speakers, the KP legislature passed a resolution in March 2014 calling for the creation of a Hazara province. Interestingly, on the issue of this resolution, the house members from Hazara irrespective of their party allegiances voted in favour of the resolution.³ All the major parties including Pakistan Muslim League-Nawaz (PML-N), Pakistan Peoples Party (PPP), Pakistan Tehreek-i-Insaf (PTI) have expressed

support for this idea, but no progress has been made so far.

The other major demand for territorial re-organization of the state concerns Punjab. In 2010-2011, there was a popular movement mobilizing in favour of the creation of a new Seraiki province in south Punjab in addition to the restoration of the Bahawalpur province. The PPP went into the 2013 elections heavily supporting the demand for re-organization of Punjab. However, like the Hindko movement in KP, these demands did not receive electoral support in the 2013 elections. In Sindh, the Mottahida Quomi Movement (MQM), intensified its support for a functional local government system to ensure its domination over urban Sindh. It has shied away from making vociferous demands for territorial re-organization of Sindh unlike the ethnic minorities of KP and Punjab. Hence a major consequence of the 18th amendment for ethnic politics has been the demand for creation of new provinces. According to Article 239 (4) of the constitution, changing the boundaries of a province requires the support of two thirds members of the National Assembly, Senate as well as the concerned provincial legislature. Such a broad-based consensus seems to be too difficult to achieve under present circumstances. Moreover, the state of Pakistan is still skeptical of accepting language-based provinces.

The 18th amendment was a giant leap forward in transforming Pakistan's federalism from de jure to a genuine system of de-centralized government. However much remains to be done in terms of the implementation of this landmark amendment. Various challenges have hindered its implementation pertaining to administrative, political and financial issues. There has been less than ideal progress in terms of transferring powers to provinces. The bureaucracy still retains its centralized character and remains very powerful. Financially, generation of revenues by provincial governments remains a big problem. The 7th NFC Award transferred large responsibilities to provinces who are struggling to generate revenues. The provinces are also suffering from a lack of trained personnel to take over responsibilities from the center.⁴ It will take time, effort and willingness from the central and provincial governments to carry this process of decentralization and devolution of power to its logical conclusion. The federalization of Pakistan started by the 18th amendment will go a long way in peacefully managing ethnic conflicts in Pakistan.

THE 18TH AMENDMENT AND ETHNIC MANAGEMENT IN PAKISTAN:

A short Q&A with Katharine Adeney



Katharine Adeney

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1. How would you like to analyze/historicize the question of ethno-lingual nationalism in the process of state-building and constitutional development in Pakistan?

The changes to the name of NWFP introduced by the 18th amendment went some way to changing the way we understand the politics of multilingualism in Pakistan, partially conceding demands for the renaming of the province along ethno-linguistic lines (only partially however because of the addition of the word 'Khyber'). This is unlikely to lead to a major change in the way that policy makers view the politics of language in Pakistan and of ethno-linguistic identity more generally. Although there has been more mainstreaming of the acceptability of the idea of a Seraiki speaking province in recent years, after the

introduction of the 18th amendment, little practical progress has been made in this regard. Pakistani policy makers based at the centre have traditionally been very suspicious of the politics of language, despite India's success in recognising (and therefore diffusing) the politics of language through recognition. Afghanistan's 2004 constitution adopted similar recognition, again, with no detrimental effects.

2. In your view, to what extent has the 18th amendment addressed the long standing political demands of ethnic identity and regional autonomy in Pakistan?

Major changes were made in the 18th amendment and it is important that we should not underplay these. The fact that politicians from different provinces were able to reach agreement on very divisive issues such as the National Finance Commission Formula, the redress of many of Balochistan's grievances and the renaming of NWFP was extremely promising. However, other issues, such as increasing the number of provinces and decreasing the size of Punjab will benefit Pakistan. If you look at the way that federations are structured throughout the world, those with a smaller number of provinces have a significantly higher failure rate than those with a larger number of provinces. Those with a dominant core region are also prone to greater tensions. Creating a Seraiki speaking state would go some way to redressing these problems. But it is also important that the institutions of state, political, military and bureaucratic become more representative of all the people of Pakistan. Sharif's current cabinet is Punjabi dominated and this does little to assuage those concerns of the smaller provinces. The army has moved to increase recruitment from provinces such as Sindh and Balochistan but these recruits are unlikely to rise up the ranks.

3. Any specific suggestion or research question(s) you may like to share for the better management/understanding of ethnic diversity in Pakistan?

History (and comparative research) teaches us of the dangers of trying to sweep diversity under the carpet and pretending it doesn't exist. This does not make diversity disappear, it simply provides conditions under which it can fester and develop grievances. We saw this with Bengalis in East Pakistan and with several identity groups in India. What is important is to recognize this identity and provide inclusion in the institutions of state that matter. That is how Pakistan will strengthen itself. There is a big disconnect between the affiliation of (for example) Punjabis and Balochis with the state, as evidenced by surveys such as the State of Democracy in South Asia. It is important to provide political and economic inclusion, but also to recognise that group rights are also important. Pakistan has for too long worried about recognizing itself as a multinational, multilingual state, or at least, seen this as a source of weakness. There are many successful multinational/multilingual democracies, recognition is more likely to promote affinity with Pakistan rather than lead to pressures for separation.

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LOCAL GOVERNMENT ELECTIONS IN BALOCHISTAN



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Honouring the spirit of the 18th constitutional amendment, enshrined under Article 32 and 140-A of the Constitution of the Islamic Republic of Pakistan 1973, the Government of Balochistan is credited to be the lead province in promulgating the Balochistan Local Government Act, 2010, and also having materialized its commitment in empowering the people at the grassroots level by completion of the local bodies elections in December 2013.

It has been a gigantic task to conduct the local bodies elections in spite of unavoidable impeding factors, such as the vulnerable law and order situation post natural disasters in the province as well as administrative, legal and technical issues. Nevertheless, while overcoming these impediments, the government successfully conducted new delimitations of the local councils throughout the province and enacted certain supplementary legislations, paving a possibility for the elected houses of local bodies to assume charge of their assigned mandate.

The local bodies elections did not materialize without challenges. The transition from the Devolution Reforms through the Local Government Ordinance 2001, to the enacted Balochistan Local Government Act (BLGA) 2010, mostly restored the composition and role of local councils in light of the Local Government Ordinance 1980. The urge was supplemented manifold by the fact that, in order to effectively uphold the spirit of local governance in the changed scenario when the urban-rural split was being restored and when the population analysis of towns and villages was last updated a decade and a half (1998 census) before, new delimitations had to be carried out in the province to make governance outreach feasible and effective. The new delimitations of wards and councils thus proved to contribute principally towards holding of the local bodies elections in an impartial and transparent manner. This precedence serves as a guideline for sister provinces that are yet to delineate such delimitations, particularly in a scenario where the Supreme Court has delegated this responsibility to the Election Commission of Pakistan (ECP).

The essence of the peaceful local bodies elections was that it was the first time in the history of the province that party based local polls were held by enacting amendment in the BLGA 2010 and eradicating the fear of tribal feuds and hostilities which had always been symbolic in the conduct of local polls. Moreover this was an endorsement to Pakistan's Commitment of the agreement on the

International Covenant on Civil and Political Rights (ICCPR).

The first phase of elections to the local bodies for electing councillors against general seats was successfully held on 7th December 2013. A number of supplementary legislations associated with the election of specialized groups (women, peasants and workers) and that of Mayor/Chairmen and Deputy Mayor/Vice Chairman (secret ballot/show of hands) resulting in public litigation were factors that contributed to the delay in the second and final phase of the local bodies elections. Regardless of these unavoidable restraints, Balochistan has set the pace by subduing the apparent improbabilities.

After the ECP elected Mayor/Deputy Mayor issued a notification, Metropolitan Corporation Quetta, Chairmen/Vice Chairmen of District Councils, Municipal Corporations, Municipal Committees and Union Councils have taken charge of the respective offices.

The details of the existing Local Councils are as under:-

S.#	Name of Local Council and Number	Designation of the elected Member
1	Metropolitan Corporation Quetta (1)	Mayor/Deputy Mayor
2	Municipal Corporations (4)	Chairmen/Vice Chairmen
3	Municipal Committees (54)	Chairmen/Vice Chairmen
4	District Councils (32)	Chairmen/Vice Chairmen
5	Union Councils (635)	Chairmen/Vice Chairmen

Apart from any undue optimism, it is hoped that Balochistan's achievement in establishing local councils does not exclude proposition for better legislations in the days to come, with more devolution of authorities to the newly-elected local bodies in true spirit. A pace has been set to recognize these institutions as the third important tier of the government, following the federal and provincial, as embedded in the Constitution of Pakistan. To accelerate government efforts, the system now in place also seeks donor assistance to achieve functional efficiency to bring about better and effective electoral reforms. The endeavour exhibited by the Coalition Government under the able leadership of Dr. Abdul Malik Baloch for setting of elected local bodies has hailed appreciation both domestically and Internationally.



CONSENSUS-BUILDING FOR PROVINCIAL DEVELOPMENT AGENDA: Understanding the dynamics of the Balochistan Development Forum 2015



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The Balochistan Development Forum (BDF) 2015, held in Islamabad in January, was meant to showcase and discuss the development agenda, vision and sector-wise development potential of the province. Multiple stakeholders from the federal government including provincial representatives, military representatives, political party representatives, international community, donor agencies and civil society representatives attended the event. It presented the province with an opportunity for investment with development partners and the international community.

A three-pronged strategy which included institutional, infrastructure and human resource development was adopted by the provincial government. The first of its kind

initiative, BDF was the brainchild of the Chief Minister's Policy Reforms Unit (CMPRU) with technical support from the United Nations Development Program (UNDP) and was meant to study the legislative, institutional and fiscal spaces provided to Balochistan by the 18th constitutional amendment and the 7th National Finance Commission (NFC) Award. The CMPRU has been headed by leading political economist, Dr. Kaiser Bengali.

The 7th NFC Award and the 18th constitutional amendment are two key reforms introduced through political consensus which, to a large extent, have dismantled the centralized state structure of Pakistan. The result has been an empowerment of the provinces to thresh out their own planning and strategies. The political space created by these two key reforms is psychological as opposed to physical and provinces need to earn that political space based on their own decision making and implementation strategies. The incumbent government of Balochistan has recognized that building, upscaling and improving both the institutional and physical infrastructure through a political process are key determinants for effective, efficient and equitable service delivery at the grassroots level. As a result, it has declared the challenge of institution building as one of its top priorities.

Thereafter, as proof of its commitment, the provincial government held local government elections, despite the deteriorating law and order situation. The Comprehensive Development Strategy 2013-2020 was also drafted and was meant to highlight factors to achieve growth, improve livelihoods and prosperity. The best thing about the strategy was that it was not devised for a certain constituency

but for the development of the whole province with 14 cities and towns identified as growth centres. The provincial government promised to create 1.5 million jobs for 1.5 million families of the province. BDF helped establish the province as a development base, as opposed to its previous image of being a security conflict ridden area only.

According to Dr. Kaiser Bengali, the CMPRU held multiple meetings with stakeholders to identify development strategies for the next decade as mechanisms to boost the economy of the province. Several potential growth areas were highlighted such as the production sector including livestock, fishing, forestry and crops as well as infrastructure development that will boost the socio-economic situation in Balochistan.

This core programme for development was inspired by the belief that Balochistan "possessed tremendous development potential which needed to be harnessed in a planned manner to provide jobs to all and to eliminate poverty and all forms of deprivation," said Dr. Kaiser Bengali. At the concluding session of the BDF, Dr. Abdul Malik Baloch requested the international community to share their technical knowledge as well, in addition to financial investment.

The political leadership of Balochistan is well aware that the province needs a revised development paradigm to deal with its political, social and economic problems. The previous development paradigm, introduced by the Pakistan Peoples Party (PPP) Government was merely a political patronage and did not serve to reform the economic, social and political systems by reducing the gap between the government and the civilians. Conveniently created by people sitting in the comfortable confines of Islamabad, without taking into account the sensitivities of the land, this paradigm did not deliver much positive impact, despite billions spent on it. Possessing a high multi-dimensional poverty index with a poverty rate of 48 percent, a literacy rate of 45 percent, a gender parity index of 0.58 for primary education¹ and an extremely low level of enrolment in rural parts, Balochistan is the most under developed province of the country.

Though an extremely resource-rich province suffering from extreme poverty, the current situation of Balochistan is



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marked by complexity and only a consensus based development agenda through a dialogue between all stakeholders, including representatives from the federal and the provincial government, political parties, local tribes, nationalists, civil society and the army, can help in re-directing the province on the right track. In such a bleak situation, due credit must be attributed to the Balochistan government for initiating the BDF process in early 2014 with proper input from multiple stakeholders including parliamentarians, political parties, bureaucracy, army, experts, civil society and people at large, through series of meetings. For example, the CMPRU held a meeting with fishermen from all over the province in April 2014 at Gwadar as part of its consultations to understand the sector and devise a policy. The government through these meetings identified priority areas for investment such as agriculture, road infrastructure, water and fisheries.

Through a series of research reports on different sectors, the CMPRU has not only documented the issues and potentials, but has also identified development strategies for the next decade, expected to boost the economy of the province. The unit, with the support of the provincial government and UNDP, also mapped the rural settlements in all 30 districts of Balochistan. The 233 page survey includes elaborately drawn maps, the number of revenue villages, its rural settlements, population, water resources and communication networks. "We have identified development strategies for the next decade which are expected to boost the economy of the province. We have used the official data provided by provincial departments and district managements to compile these reports and formed strategies," said Dr. Kaiser Bengali.

For the first time in Pakistan has any government adopted such a transparent method and divulged everything to the public. Owing to the transparency, several criticisms were received, but all were well taken in order to aid the development process. According to Dr. Ishaq Baloch, "Initially, there was a lot of skepticism and criticism about the process. Majority of the people in the province were unable to comprehend as to how the role of the provincial Planning and Development automatically elevated from a post office to an organic development policy making institution. People from different social groups and political parties were unable to understand that they were becoming part of the development process. They saw it as an intervention of the incumbent government which, at the end of the day, would be for the constituencies of the MPs of the ruling party."

The UNDP has been playing a crucial role to help Balochistan devise a consensus development agenda. A few years back, an analysis of the agency revealed that Balochistan needed more robust help in technical operationalization of the 18th amendment as there was deficit of both infrastructure and institution in the province. But within a couple of years the province has taken lead and asserted an assured commitment to implement the 18th amendment and draw out its own development strategy.

The coming together of a donor agency and a political process, as the intervention is helping interaction between political institutions and social groups to formulate and administer the public policy, was also a first in Pakistan. A strong validation asserting the success of this experiment

was marked by the proposal of Mr. Sartaj Aziz, advisor to Prime Minister on security and foreign affairs, to develop a policy planning unit at the district level based on the model of CMPRU.

Dr. Kaiser Bengali said that the process which led the BDF had also helped building confidence among different stakeholders in the province. "We did a lot of consultancies and advocacy with the political parties, civil society, bureaucracy and security forces in the province. It was a new thing for most of them but once they were convinced they extended us all their support," he said.

The allocations in the coming budget of the province will further testify the serious commitment of the government to the consensus development agenda. But seemingly, Balochistan is more committed to the implementation of the 18th amendment and inclusive development as opposed to other provinces. It is now up to the federal government to back the provincial government. In the concluding session of the forum, Dr. Malik, Chief Minister of Balochistan, remarked that reforms and changes in the laws and rules of business were a necessary step to fully deliver the benefits of fiscal devolution under the 18th Amendment. Article 172(3), which empowered provinces to have a joint and equal ownership and control of natural resources, if followed up in its true sense by amending relevant laws, will not only help Balochistan overcome its historical deprivation in development but will also take it to the level where it can provide resources for the development for the rest of Pakistan.



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THE RELEVANCE OF HIGHER EDUCATION IN THE AFTERMATH OF THE 18TH CONSTITUTIONAL AMENDMENT



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centralized higher education structure such as the HEC. The study findings indicate that in most federations the federating units i.e. states and provinces, take full responsibility in funding, governance and developing academic programs in higher education institutions. With the passage of the 18th constitutional amendment, a number of changes occurred in the higher education sector at the provincial level. The appointment of Vice Chancellors & other administrative functions of the universities were transferred from the Governors (Representative of Federal Government) to the Chief Ministers in Punjab and Sindh through necessary amendments in Universities Acts in Punjab, Khyber Pakhtunkhwa and Sindh. Realizing the role and responsibility of provincial governments, the provincial Higher Education Commissions (PHECs) have been established by Punjab and Sindh. The Balochistan government has also formally announced the establishment of the Balochistan Higher Education Commission (BHEC). The Khyber Pakhtunkhwa government has also started deliberations on the issue.

Moreover, the federating units are more appropriate for developing a unified education system by joining the rivets of primary, secondary and higher education together. This creates an integrated and relevant education system for that federating unit. Furthermore, this unified and locally administered education system can better respond to the needs of the society and industry in the province.

GOVERNANCE IN HIGHER EDUCATION: AN UNRESOLVED CONUNDRUM

The governing model of higher education is quite ambiguous at the moment. Both federal and provincial governments are involved in the functioning of higher education institutions. Heads of the provincial higher education institutions, Vice Chancellors and Rectors, are appointed by the Provincial Chief Executives and these institutions operate under the regulation of provincial governments. The federal government runs these institutions through the central HEC by releasing recurring funds for various academic programs, since higher education was a federal subject prior to 18th amendment. On the other hand, the provincial governments also fund these institutions for infrastructure development. What is reflected in this picture is that the governance model of higher education in Pakistan is not monochromatic, which creates a clash of interests between the center and the federating units. It also curtails the institutional autonomy of these institutions which ought to be autonomous in conducting research and development activities.

The 18th amendment has tended to overcome these contradictions by vesting all authority related to higher education, to the federating units in order to streamline governance of these institutions. The provincial governments have been quick to establish PHECs in their respective provinces to strengthen the higher education sector. This will certainly help overcome horizontal and vertical gaps in all tiers of education—primary, secondary and tertiary. But owing to the non-implementation of recommendations of the implementation commission, even after the lapse of 4 years, the devolution of higher education functions is still in a limbo. The Sindh government has already taken up this matter with the CCI and demanded for amendments/substitution of the HEC Ordinance 2002, transfer of administrative set-up and assets, direct provision of federal funding to the provinces as per the National Finance Commission (NFC) award and smooth devolution of existing physical, technical & human resources of the FHEC to the provinces.

WAY FORWARD

The grand debate regarding the relevance of higher education in the context of the 18th amendment can be resolved through the empowerment of the PHECs. The center has to understand that contemporary trends of the centralization of education have been dumped by several developing nations such as India, Malaysia, Brazil and Mexico. The OECD 2003 Education Policy Analysis Report⁴ also underlines the trends in the devolution of higher education in various developed and developing countries for its effective functioning. The confusion regarding higher education and the HEC between the federal and provinces can be resolved through the CCI so as to prevent confusion and a lack of clarity regarding control and authority. So far, the federal government has not taken any concrete steps to implement the 18th constitutional amendment in letter and spirit. It is now imperative on the provincial governments to sit down and formulate constitutional arrangements through provincial

assemblies for full implementation of the 18th constitutional amendment and the devolution of higher education to the provinces. The earliest rationalization of HEC's role ordained in the constitution and a higher degree of empowerment for the provincial higher education set ups would enable the respective provincial governments to manage and provide financial, technical and logistical resources for improving quality, enhancing access and ensuring relevance of research & development at par with national and international standards.

Lastly, conflict resolution mechanism envisaged in creating the CCI should be fully mobilized to facilitate and resolve this five year delay in the devolution of higher education to the provincial governments. Otherwise there is a danger that the debate and disappointments simmering in the federating units may unravel the 18th constitutional amendment altogether.



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BACKGROUND

Education, prior to 18th constitutional amendment, was defined as, "curriculum, syllabus, planning, policy, centers of excellence and standards of education"¹ and remained a joint function of the federal and provincial governments. The federal government regulated higher education through the Federal Higher Education Commission (FHEC) for which the HEC Ordinance 2002 was enacted. With the abolition of the concurrent list through the 18th constitutional amendment, education has been shifted to the legislative and executive jurisdiction of the provinces and defined as "standards in institutions for higher education and research, scientific and technical institutions."² This falls under the purview of the Council of Commons Interests (CCI).

HIGHER EDUCATION: IN THE MIDDLE OF THE FORD

In a centralist governing mechanism prior to the 18th constitutional amendment, it was reasonable to think that higher education was the sole prerogative of the center. But given the governance nature of our entire educational edifice, it has not worked successfully. The entire sector has been compartmentalized along horizontal and vertical lines with blurred boundaries of control between the center and provinces. Primary and secondary education comes within the purview of provincial governments of all federating units of Pakistan; whereas, higher education is monitored and steered by the center through the Higher Education Commission (HEC). The reason given for this arrangement is to ensure standardization and quality control at higher education institutions and enable a unified system for the higher education sector. The result has not been desirable in terms of academic and research excellence. The current predicaments being faced by the federating units in reaping the benefits of the 18th constitutional amendment seem to indicate a lack of political will, in fact, a subtle opposition from the beneficiaries of the centralized arrangement of power structure to enforce its implementation in letter and spirit.

A recent study conducted in 12 federations³ from all six continents provide us contrary findings to the claim of the usefulness of a

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CIVIL SOCIETY PERSPECTIVE: FEDERALISM SANS FEDERAL CULTURE



Zafarullah Khan

Executive Director
Centre for Civic Education for Pakistan

An Islamabad based civic educator and researcher with interest in democratic developments and federalism.

Five years down the lane if we look at the dividends, unfortunately, it is a perpetual traditional war of turf and territory between the federal and provincial governments, with the federal, Islamabad being blamed for 'keeping the meat whilst throwing the bones.' It appears to be the classic case of a reluctant federation that is not willing to devolve the substantive, especially pertaining to economic rights and natural resources, along with lethargic provinces that too have failed to operationalize what has been given to them, especially related to the creation of empowered local governments. The troubled Balochistan remains a positive exception.

Constitutionally, 'residual powers' rest with the provinces. This would mean that they are supposed to be much more alert, creative, innovative and proactive. Nevertheless, provincial zeal is often killed by raising odd questions about capacity in the domain of the executive. This popular refuge is pretty irrational as all tehsils, districts, provinces and Islamabad are run by federally recruited civil services. The question arises as to how officers from similar services and grades conveniently divorce capacity when they are posted in the provinces or districts. Perhaps the so-called giant of capacity can't be imprisoned only in the files-ridden federal secretariat. This also serves a stark reminder about the pending agenda of civil services reforms duly recommended by the Parliamentary Committee on Constitutional Reforms (PCCR) that crafted the 18th amendment. The PCCR had made it explicitly clear that the new constitutional software of Pakistan i.e. the post-18th amendment governance would require a new kind of civil services system and for that the federal and provincial public services commissions must sit together and figure out the way forward. Progress in this regard is simply zero. Unless we embark on futuristic civil services reforms, the new constitutional software will remain incompatible with the hardware of delivering governance at the federal, provincial and local levels.

The 18th amendment had inserted the innovative entry 13 in the Federal Legislative List-II that is, 'Inter-provincial matters and co-ordination.' As of today, this remains one of the less utilized constitutional provisions. Rather, unilateral usurpation is the trend post the 18th amendment. Effective inter-governmental relations are missing and the constitutional possibilities via platforms like the CCI and the NEC remain unexplored. Ideally this clause should have given birth to a new culture of co-operative federalism involving the federation and the provinces to synchronize themselves with the new realities.

If one dissects deeper, the logical conclusion that emerges is that after the completion of the work of the constitutionally mandated Implementation Commission on June 30, 2011, that devolved to the provinces everything related to the erstwhile Concurrent List in the Constitution of 1973, there is no functional mechanism of hand holding of the provinces for a meaningful transition. Even any kind of communication link between the federation and the provinces on issues pertaining to democratic devolution is also missing. This does not auger well for the country's first-ever indigenous constitutional reforms and therefore the bitter harvest is nothing but compounded confusions and mistrust along with new federal-provincial conflicts and resentment.

Pakistani civil society received the 18th amendment with a varying degree of both optimism and skepticism. Several narrow filters were applied during its coverage by the Pakistani media. Instead of exploring the critical questions around the core of provincial autonomy, the media preferred to discuss about the utility and

relevance of constitutionalism in the age of economic miseries and developmental deprivation and disparities. Majority tried to find faults in the amendment and criticized the in-camera process and the final product crafted by the political leadership. Their reductionist view looked only at the changes brought in to the Constitution and they conveniently ignored the set of recommendations made to the executive by the PCCR for vital reforms and more importantly, the seventeen notes of reiteration by various political parties on contested and contentious issues that could not yield political consensus during this process. These notes of reiteration could be described as pending politics and whenever the posterity decides to evolve a consensus on these contentious issues, then only will these be picked up as an agenda for future constitutional reforms. The 18th amendment is not carved on a stone as a final word. Nobody has claimed so and we are a living nation with an ever-evolving organic constitution. Democracy, federalism and constitutionalism are always considered as work in progress. The process of the 18th amendment was purely an indigenous politics-

led initiative and as a prelude, there were no donor-supported consultative workshops and papers. History is witness that all artificially transplanted reforms withered away with the demise of legitimacy starved regime whereas the 18th amendment has passed the test of time and change in the ruling elite.

Today, the best way to revisit the 18th amendment after five years, is to federalize the governance architecture of Pakistan. Without federal culture, functional federal constitution and contenting polity cannot be formulated. It is also a time to nurture a federal imagination in Pakistan for a better future. Presently, in the absence of any federal-provincial hand holding mechanisms, democratic devolution in the wake of the 18th amendment is like my childhood story 'Blind men and the elephant' where everyone lives with their own half-truths. Today, Pakistan needs the whole truth and that too according to the Constitution-that asks for a federal, parliamentary and democratic Pakistan.

“Weakness in the social sector at the grass-root level could be addressed by the 18th amendment and Pakistani progress could be strongly supported by this devolutionary framework.”

Marc André Franche

Country Director UNDP

Pre Conference Dialogue, 17th April 2013, Islamabad



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1. The blind men and the elephant' is an Aesop's fable.

GERMAN CONTRIBUTIONS TO THE FEDERALIZATION PROCESS IN PAKISTAN



Dr. Cyrill Nunn

German Ambassador to Pakistan

The adoption of the 18th amendment in 2010 meant a landmark shift in the mode of political decision-making and in the administrative modus operandi of the entire Islamic Republic of Pakistan. It was a decision that the National Assembly of Pakistan was applauded for throughout the world, because it was perceived as another major step towards making Pakistan a truly democratic country that promotes participation at all levels through

devolution of power from the federal to the provincial level and beyond.

Coming from Germany, which is a federal state itself, I am a firm believer in subsidiarity, strengthening of subnational governance structures and enhancing citizen's participation in shaping their local living environments. Against this background, Germany was eager to support the federalization process in Pakistan from its very beginning.

The ratification of the 18th amendment entails transferring a multitude of responsibilities to the provincial level, e. g. social services like education and health, but also energy, agriculture and infrastructure. As a consequence, not only the provincial governments and the respective line departments needed to explore how they could best assume their new responsibilities, also the federal departments needed to re-define their roles in this new set-up as coordinating and regulatory bodies.

Moreover, a decentralised state requires well-working coordination mechanisms between the federal state and the provinces on the one hand, and inter-

provincial coordination on the other hand. Regarding the former, several federal departments have begun holding regular meetings with the provincial line departments and establishing regular exchange. In other sectors, however, working coordination mechanisms are still missing. For the latter, the 18th amendment envisages the Council of Common Interests (CCI) to ensure coordination among provinces. The potential of this important body is yet to be fully harnessed. According to the German experience, such a mechanism is of great importance for coordination in areas that are within provincial responsibility but have repercussions and impact beyond that. Coordination in energy issues (i.e. power generation and transmission) for instance ensures that synergies are created and costs for the individual provinces are reduced. Likewise, coordination in education, which is a provincial responsibility in Germany as well, is needed in order to ensure equal levels of education and harmonisation of content of curricula throughout the country. Only last month we invited H.E. the State Minister for Education, Trainings and Standards in Higher Education, Muhammad Baligh Ur Rehman and some of the Provincial

Ministers for Education to an exposure trip to Germany where they explored the set-up and working mode of the respective German coordination body, the so-called "Kultusministerkonferenz".

Lastly, besides the responsibilities, the underlying finances have to be handed over to the Province's as well. Devising a balanced budget allocation formula and a functional mode of transfer of funds—known as the National Finance Commission Award and the Provincial Finance Commission Awards—is a major challenge in itself that requires thorough consultation and consideration.

The list of issues that the Pakistani federal and provincial governments had to tackle is obviously long. Hence it is well recognised that resolving all these issues would take time—after all a vital federal state requires constant change and adoption.

Five years after the adoption of the 18th amendment, our Pakistani partners can look at some major achievements that were made in clarifying roles and responsibilities, capacitating the provincial governments, establishing coordination mechanisms and devising provincial sector strategies together with the support of the development partners.

Germany has been contributing to achieving these goals and we are committed to stand with our Pakistani friends in making the federalization process in Pakistan a success story. The federalization process has become a cross-cutting issue and we believe that it should be mainstreamed in all activities that development partners undertake throughout the different sectors. With the German Development Cooperation we are committed to supporting the devolution of power and inter-provincial exchange in the areas of taxation, health and especially local governance, to mention just a few.

In the area of taxation, the 18th amendment brought about the need to transfer the responsibility for collecting sales tax on services to the provinces to meet expenditure in social sectors. Germany has been supporting the provincial Revenue Authorities of Punjab and Khyber Pakhtunkhwa (KP) which are both recently established institutions. We also facilitate exchange on outstanding tax collection and other issues between the Federal Board of Revenue and the Excise and Taxation Departments as well as Revenue Authorities from KP, Sindh, and Punjab.

In the health sector we work with the Ministry of National Health Services Regulation and Coordination in order to facilitate exchange and coordination with

the provincial departments in establishing social health protection schemes. With the KP Department of Health, we aim at promoting the implementation standards and regulations for health services on the provincial level by supporting the Health Sector Reform Unit and strengthening the Health Regulatory Authority.

Finally, Germany has been especially engaged in helping to establish sub-provincial local government structures. After the 18th amendment had confirmed that local governments were at the disposal of provincial governments, we supported the Government of KP in developing the Khyber Pakhtunkhwa Local Government Act 2012. Following that, Germany helped to clarify roles and responsibilities between the province and the local governments. We supported the KP Elementary and

their joint position on a future local government system.

Against this background we are glad to see that lately, the process of constituting local government structures has picked up momentum and that we might expect local government elections in all four provinces of Pakistan until the end of this year.

Providing assistance that ensures that the next step in the federalization process, beyond the provincial level, is successful will be at the core of future German Development Cooperation. We are committed to share our experiences in planning and budgeting within the federal state with a special view to the local level.

The 18th amendment marked the start of the federalization process in Pakistan. At its



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Mr. Marc-André Franche, Country Director, UNDP and His Excellency, Dr. Cyrill Nunn sign an agreement for IDP's at the German Embassy.

Secondary Education Department in identifying departmental functions which will be devolved to local governments after local bodies' elections will have taken place. The German Governance and Education Programmes utilized their respective expertise which also included budget analyses. Beyond that, the Governance Programme also supports the department in their fiscal decentralization to ensure that funds follow devolved functions.

Based on our own experience we are convinced that inter-provincial exchange is imperative in all areas of provincial responsibility. In the area of local governance, the Local Councils' Association Khyber Pakhtunkhwa was supported in inter-provincial exchange with the other three existing associations from Sindh, Punjab, and Balochistan. The associations utilized this forum to compare the local government legislation of all provinces, discuss their role towards and involvement with local government departments, and

fifth anniversary we can look at many achievements, but we are also aware that the successful completion of this process will require more time, commitment and resources. I am hopeful that the Government of Pakistan will stay committed to the implementation of the achievements of the 18th amendment. Likewise I hope that development partners will continue promoting this process wherever possible—Germany will certainly do so.

INTERVIEWS



Senator Hasil Bizenjo

1. How do you view the inter-provincial relationship after the 18th Amendment? Has it improved? If yes, how and in which areas/sectors? If not, what are the reasons?

The 18th Amendment has promoted better understanding between the federal and provincial governments and among the provinces. There is a consensus between the provinces and a constitutional guarantee. However, that being said, there is still a lot of work left to be done.

2. What are the key bottlenecks in the implementation of the 18th Amendment at both federal and provincial levels?

The biggest roadblock in the implementation of the 18th Amendment is the federal government's reluctance to cooperate and implement it. The federal government is trying to control areas which the provincial governments have power over. An example of this is the syllabus issue. The federal government needs to realize that the 18th Amendment is very beneficial if it is implemented properly.

3. What are your suggestions to overcome these bottlenecks for the smooth transition of devolution at the federal, provincial and district levels?

One thing which will make a big difference is if the Council of Common Interests (CCI) is more active. The CCI is supposed to have at least one meeting in 90 days but that is not happening. If that happens, many issues will be resolved.

1. How do you view the inter-provincial relationship after the 18th Amendment? Has it improved? If yes, how and in which areas/sectors? If not, what are the reasons?

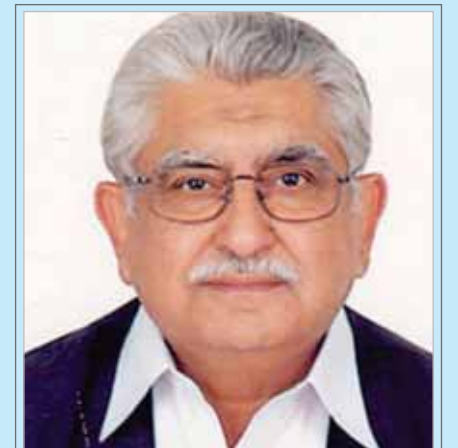
The 18th Amendment gave the provinces more powers. Before the Amendment, the Constitution gave powers to the federal government to make changes which the provincial government did not have a say in. Some sectors which were affected by the 18th Amendment included electricity and minerals. For instance, previously, provinces could not produce more than 50 megawatts of electricity but now they can generate 200 megawatts. Previously, the minerals in any province were controlled by the federal government but now the provinces have 50 percent control over their mineral resources.

2. What are the key bottlenecks in the implementation of the 18th Amendment at both federal and provincial levels?

The key bottlenecks in the implementation of the 18th Amendment at both the federal and provincial levels are that the present government is hindering the implementation of the 18th Amendment. Ministers from the current government say that it needs rethinking and there should be joint control over some sectors such as education, for instance.

3. What are your suggestions to overcome these bottlenecks for the smooth transition of devolution at the federal, provincial and district levels?

To overcome these bottlenecks, it is a matter of intention. If the government wants, it can overcome these issues without any problem. The Constitution should be understood and interpreted correctly.



**Senator
Haji Muhammad Adeel**



Farah Aqil

Ex-Senator and former Chairperson
of the standing committee on the
Inter-Provincial Coordination

1. How do you view the inter-provincial relationship after the 18th Amendment? Has it improved? If yes, how and in which areas/sectors? If not, what are the reasons?

I do not think the relationship has been affected since the 18th Amendment was not implemented properly. The provinces have not been able to take care of the departments that now come under their control while the federal government has not fully come to terms with what the 18th Amendment entails.

2. What are the key bottlenecks in the implementation of the 18th Amendment at both federal and provincial levels?

On paper, the 18th Amendment has been passed but it has not been implemented. One big reason for that is the lack of capacity building for the provinces. The provinces were not equipped to deal with the departments that now come under their control and do not have the resources to either. Tourism, education and health are the main areas that are suffering.

3. What are your suggestions to overcome these bottlenecks for the smooth transition of devolution at the federal, provincial and district levels?

The provinces should have been given control of the various departments in phases after ensuring that their capacity to handle them was built. They have been given control but are not able to utilize the 18th Amendment and the government is not very supportive either.

1. How do you view the inter-provincial relationship after the 18th Amendment? Has it improved? If yes, how and in which areas/sectors? If not, what are the reasons?

We view the relationship as a positive one. We deal with inter-provincial matters through the Council of Common Interests (CCI) and even though the meetings have not been held regularly due to the Prime Minister's busy schedule, we have been dealing with several national matters and they are being settled. The inter-provincial relations are functioning through the respective ministries. Provincial autonomy has definitely improved and the Ministry of Inter Provincial Coordination (IPC) has ensured allocation of resources.

2. What are the key bottlenecks in the implementation of the 18th Amendment at both federal and provincial levels?

There are no such bottlenecks but there are certainly some issues present. The issues that exist are for example, of employment in the devolved ministries. The uniformity of policy is also an issue. Another issue is that the provinces have their own claims over oil and gas and want to enforce their own policies.

3. What are your suggestions to overcome these bottlenecks for the smooth transition of devolution at the federal, provincial and district levels?

Uniformity of policy and approach must be ensured and the IPC is doing the residual work.



Muhammad Ejaz Chaudhry

Secretary
Inter-Provincial Coordination

“The 18th amendment has presented HEC with an opportunity to review its role and how the higher education institutions across Pakistan should be managed in this post-devolution scenario.”

Dr. Mukhtar Ahmed

Chairman

Higher Education Commission Pakistan



Chairman HEC Dr. Mukhtar Ahmad and Mr. Marc André Franche, Country Director UNDP, award federalism fellowship certificate to HEC-UNDP fellow.

YOUTH VOICES FROM KHYBER PAKHTUNKHWA



Ismail Khan Afridi

In the developed world, the entire political structure is based on local governments. Politicians are first nourished here and then go on to become leaders at the national level. Take for example, ex Prime Minister Yousaf Raza Gillani, who took his start from basic democracy as well.



Rahat Iqbal

More forums like the Council of Common Interests should be established at the provincial level where issues pertaining to inter-provincial relationships should be discussed. The forum should be open for any sort of discussion in view of the benefits and interests of the nation and the country. Recommendations and suggestions should be welcomed instead of being criticized.



Mohammad Majid

The devolution of higher education to the provinces after the 18th amendment has had a positive impact for the youth as the number of universities have increased. But simultaneously it has affected the quality of education and fees have gone beyond the capacity of the middle class.



Shahida Perveen

The local government system truly serves as the launching pad for future political leaders. It provides an opportunity at a very young age to understand the importance of the voting process, the opinion of the masses and enables them to take part in the decision making process.

YOUTH VOICES

YOUTH VOICES FROM BALOCHISTAN



Asfand Yar Nawab

Though the total impact of devolution of higher education is yet to be calculated but, as per reliable analysis, it could not be ruled out that the ever demanding rights of the education of Balochistan have been addressed to some extent. Furthermore, access to opportunities for quality higher education in Pakistan and abroad have increased. Keeping this fact in mind, an increasing number of youth is now convergent towards education.



Bushra Qamar

Indeed, the 18th amendment in the constitution is enhancing the inter-provincial relationship to a great extent. It has changed the common mindset of being dependent and eradicated the hegemony of the biggest populated province which was the reason of hatred between the individuals and governments.



Mohammad Akram Buledi

The local government system gives chances to every competent and social youth to participate and work for their own people on one end while on the other end, it also provides them with a platform to further enhance their leadership skills for further growth.



Nusrat Jahan

The 18th amendment has given an end to the hue and cry of the provinces for provincial autonomy. It has empowered provinces to take decisions on their own keeping in view the largest interest of their own people.

YOUTH VOICES FROM PUNJAB



Hassan Chattha

The devolution of higher education to the provinces post the 18th amendment will have a mixed impact for the youth, mostly negative. With the federal government overseeing such matters, there was always pressure on it to deliver a bare minimum of acceptable performance, as foreign aid often depended on it in some conditional ways. However, in provinces with well-meaning governments, there is the possibility of considerable improvement in the education system.



Hafiz Saadat Ali

The 18th amendment ensures more provincial autonomy, but it does not enhance the inter-provincial relationships. Provincial governments are being run by different political parties who have different priorities. They have established their own trade relations with governments of different countries. At the same time, their autonomy has started a competition among provinces in fields of economics, health, education and development, which is helping in the betterment of the provinces.



Aroosa Shaukat

The need is for institutions that inculcate a sense of bonding between the provinces through intergovernmental or interprovincial institutions like the Council of Common Interests and others. But inter-provincial relationships merely do not rely on constitutional amendments and as such are far more linked with the socio-political dynamics within provinces and those at the helm of affairs politically.



Sadia Bibi

Access to leadership roles is not easy for the youth at all. Here, money matters only. If you belong to a powerful, loaded family then you have influence over local leaders who can get you any opportunity you want. Therefore, I do not see much role of the local government in providing the youth an opportunity as future political leaders.

YOUTH VOICES FROM SINDH



Zoya Jamro

Under the 18th amendment, all provinces share equal responsibilities and the resources are distributed in an agreed and transparent manner with adequate freedom given to provinces for making their own decisions and an enabling environment for fair play is created. Therefore, we may expect better inter-provincial relationships post the 18th amendment.



Asghar Ali

In the past, it has been observed that students from smaller provinces have been deprived from scholarship schemes owing to one reason or the other. Therefore, devolution of higher education to the provinces after the 18th amendment will increase share of students in the provinces and assist the spread of education amongst a larger youth population.



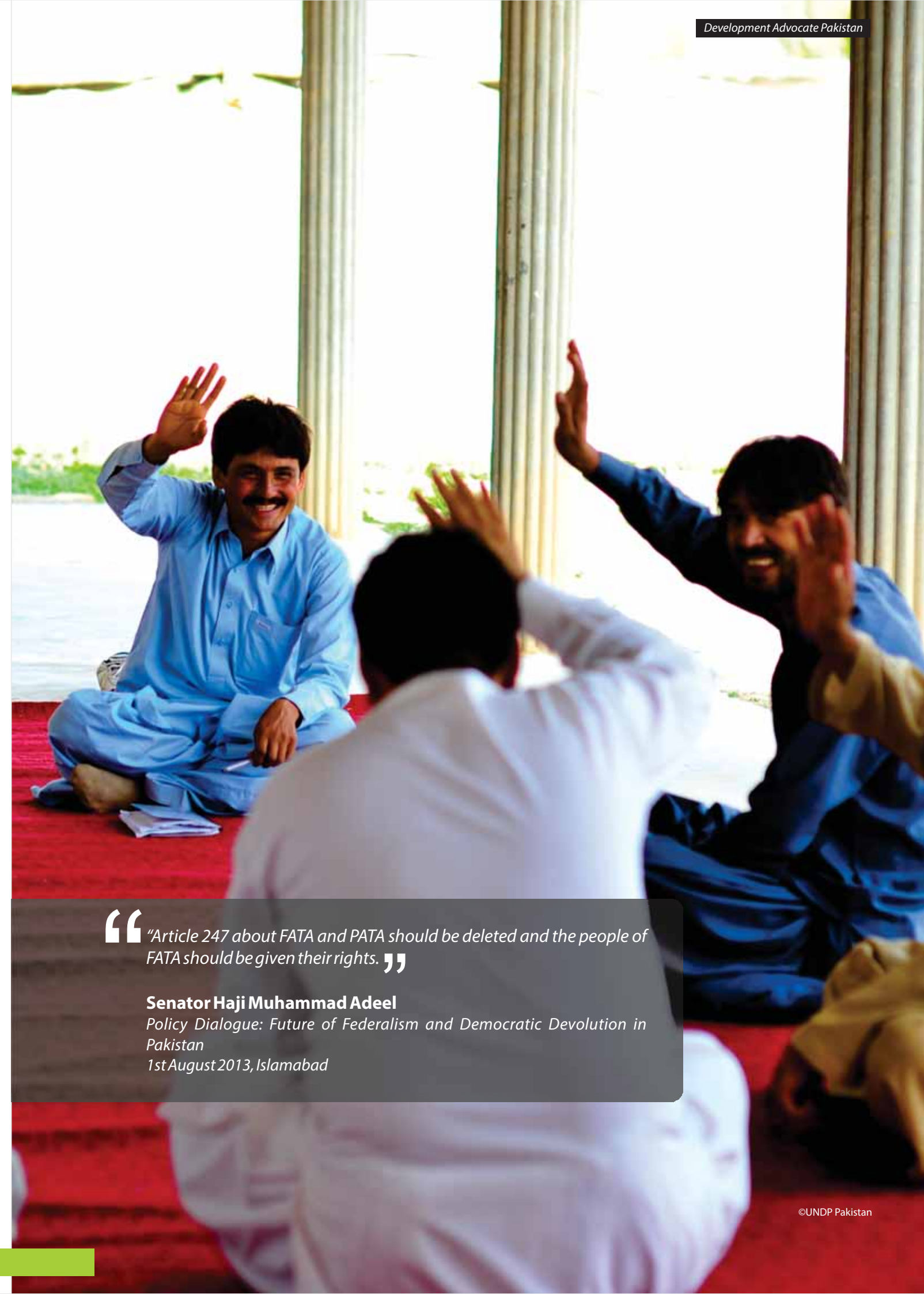
Adnan Sadiq

The devolution of power at the local government level will provide awareness regarding leadership and furnish the youth at the grass root level. The youth can play a vital role in the democratic process. Such an action will enable the youth to understand issues and challenges at the local level, in comparison to the global scenario and allow them to hone their skills from an early age.



Shabnam Baloch

The role of the 18th amendment is very positive in terms of improving inter-provincial relationships as well as the relationship of the centre with the provinces. The amendment will promote an enhanced role of the provinces in policy making. Moreover, it will offer a guarantee towards provincial autonomy which will improve the level of trust.



“Article 247 about FATA and PATA should be deleted and the people of FATA should be given their rights.”

Senator Haji Muhammad Adeel

Policy Dialogue: Future of Federalism and Democratic Devolution in Pakistan

1st August 2013, Islamabad