

## DEVOLUTION OF POWER TO THE PROVINCES AFTER 18TH CONSTITUTIONAL AMENDMENT IN PAKISTAN: THEORY AND PRACTICE

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### ABSTRACT

The 18th Constitutional Amendment is a well-known constitutional amendment that contributed significantly towards empowering the provinces through substantial decentralisation. It not only restored the constitution of Pakistan to its original form but also gained the core objectives of devolution of power to the provinces as federal systems exhibit. Both potentials and pitfalls are highlighted through the provision of this amendment to maintain good governance in federating units. 18<sup>th</sup> Constitutional Amendment is a step forward towards harmonious political and economic union of distribution of resources among the provinces. For the right-size of the federal and provincial governments major fundamental reforms in constitution were needed that could also strengthen the local governments to enforce legislative and citizen-based accountability and implement fiscal discipline. This amendment emphasized on the service delivery performance in all orders of government eliminating provincial barriers that affects mobility and internal trade and restrain the unaccountable governance. It empowered provinces to determine the policies on devolved subjects after abolishing concurrent legislative lists to mitigate the unintended adverse consequence of Eighteenth amendment for nation building in the federation of Pakistan. This amendment is still a hope for cooperative federalism and provincial autonomy at different administrative levels in a global scenario.

**Keywords:** Devolution of Power, 18th Constitutional Amendment, Provinces of Pakistan.

### INTRODUCTION

#### Federalism

Federalism is an idea that defines political justice, shapes political behavior, and provides a direction to humans towards the civic synthesis of both. Organization of political authority and power in relation to a variety of political structures which are consistently developed with federal principles are the essence of federalism. The simplest and fair definition of federalism is self-rule plus shared rule.

The process that structures the set of institutions for the distribution or redistribution of authority is

known as federalism. Federal is an extracted word from a Latin word “feodus” which means “covenant”. It is an agreement, a partnership or a contract that compels component units to share powers and functions as per decided or mutually agreed principles. Federalism distributes power between the central government and provinces /states that manage and accommodate to avoid conflicts. It is a theory that deals with the arrangement of federating units within federation. (Rodden, 2004)

Federalism is a concept derived from some theories of “social contract” and it has its implications theoretically and practically. Characteristics of cooperation, coordination and partnership instead of subordinate relationship define the importance of federalism where the main stress is on the devolution of powers to the federating units.

Almost 28 countries of the world are organized based on the principle of federalism. Federations are established in two numerous ways:

1. The sovereign states or members of a confederation entered into a new deal and established federation
2. The Unitary states devolved the powers and replaced unitary system with federation. (Reinig, 2010).

Combination of shared rule and self-rule is the main federal principle. Division of power to the general and regional governments through coordination but independent within a sphere highlights the importance of federalism.

In the federal system of government, two sets of government function to achieve common and set goals and share the authority. Self-rule is granted at the local level and power sharing is provided at federal level. This system guarantees the division of powers among the central government and its federating units constitutionally. It has been argued that for heterogeneous societies, federal system provides an appropriate mechanism to manage diversity. Most diverse societies like Canada, India, and Switzerland have successfully managed diversity by establishing federal political institutions (Adeney, 2012).

Federalism manages the conflicts and differences between the centre and its units regulating and managing all sorts of constitutional and administrative affairs. Federating Units consider the local preferences and interests whereas the national affairs are dealt by the Central Government. The far most important fact in federalism is distribution of power that develops harmony and equality among the federating units. Majority countries of the world require federal system for the unity of heterogeneous society and are composed of cultural, linguistic and ethnic groups (Bolleyer, 2009).

For bringing harmony and unity for heterogeneous society among different groups where the identities of individuals along with their

partnership and participation in state affairs; federalism provides proper guidelines. Mr. William Livingstone explains that to preserve the personality and individuality of divergent groups. It has the significance of federalism to form a separate constitutional units and a totality of distinct. (Ahern, 1965)

The contemporary federations have a variety of institutions and contrast in a number of ways. However, there are some common features that distinguish federations from the nonfederations. The salient features of federalism are as followings:

1. Supremacy of Constitution
2. Division of Powers
3. Independent Judiciary

### **1-Supremacy of Constitution**

The existence of a written constitution is always presupposed which is considered a “living document”. Constitutions are developed gradually according to the needs and choices of people by the time particularly in heterogeneous societies.

The Constitution is the supreme law consisting of a pool of powers which are divided between federal governments and federating units. Through Amendments the powers can be withdrawn and the procedure of amendments is already determined in the constitution. Protection of the autonomy of federating units defines the credibility and legitimacy of federal arrangements described by the constitution.

### **2-Division of Powers**

Division of power is the central element of federalism. The nature of the division of power varies from federation to federation or state to state. Two styles of distribution of powers are observed in federalism.

#### **a. Dual Federalism**

In dual federalism two separate and independent tiers of government perform within the defined and guaranteed jurisdictions by the constitution. It is layer cake federalism in which Centre and units do not overlap around responsibilities. Equal and limited powers are carried out by the branches of government. Members' units are mostly not involved in the making of decisions centrally. USA practiced such a kind of federalism for the 150 years of the American republic roughly from 1789

to 1945. This kind of federalism mostly creates notions of conflict and competition between federal government and federating units as a matter of fact a complete separation is not found even in dual federalism due to the similar matters having internal and external scope so that's why the concept of federalism was presented and adopted in most of the federal states of the world (Fenwick, 1956).

**b. Cooperative Federalism**

It is known as marble cake federalism where the powers are integrated through cooperation of state and local governments. To avoid conflicts, various levels of governments are characterized by cooperation. Distribution of powers can be symmetrical or asymmetrical. The same granted powers to the federating units are symmetrical whereas different distribution of power among states or provinces is known as asymmetrical federalism. In some federations such as India, Russia, Canada, Spain and European Union, asymmetrical autonomy is provided in relation to the matters related to language, culture etc.

**Methods to avoid conflicts in Federations:**

To avoid the conflicts between federation and federating units" different methods are adopted.

**i. One Legislative List**

In this method one constituent list bears the enumerated powers whereas the unenumerated powers (residuary powers) are entrusted to other levels of government. The Constitution of 1962 of Pakistan adopted one legislative list method which was the only list of federal legislative powers.

**ii. Two Legislative Lists**

In this method two constituent legislative lists are presented for the federal government and other federating units simultaneously. It is not possible to give unlimited authority therefore the concept of residuary power is the part of this method.

**iii. Concurrence**

In some federations, in addition to exclusive jurisdictions of federation and provinces, the federations provide concurrent powers. In such circumstances, the federal government and the provincial government are provided authority to legislate on certain matters. However, in cases of

incompatibility of law, the federal law prevails in most of the federations.

This principle is more common in the dual federations such as Canada, Belgium and Switzerland (Watts, 2005). The original constitution of 1973 in Pakistan had also provided concurrency. There were two legislative lists in this constitution i.e. the federal legislative list and the concurrent legislative list. However, the concurrent list was abolished in 2010 through the 18<sup>th</sup> constitutional amendment.

**Residuary Subjects:** In Federation some powers or subjects are not enumerated in any legislative list. These powers are called residuary powers. Some federations provide residuary powers to the federal government and the others to the provinces.

**3- Independent Judiciary**

Judiciary not only interprets the constitution but also ensures its supremacy by settling down the disputes among various tiers of governments. It is always the guardian of the supremacy of constitution and arrangements.

In the map of the world Pakistan exists in the South Asian Region. Pakistan was renamed after independence as "Islamic Republic of Pakistan". Since beginning it has faced several challenges. Internal and external forces tried to weaken Pakistan in the past seven decades. Punjab, Sindh, NWFP, Bengal and Balochistan were the provinces of Pakistan when it came into being. Every province had a different ratio of area and population. Course of the constitution and democracy in later periods of post-independence was acutely influenced by the British legacy. Post-colonial federation model was presented in 1956 (Bagley & Sayeed, 1967).

Devolution of power in federalism is a strong system of government that highlights constitutional consensus for establishing governance in any federal state. The United States of America became a balanced model of federalism after a federal form of governance in almost 25 states. Pakistan and the USA have similarities in constitutionalism, multinational trends, institutional hierarchy and policy making bargaining. Hence, the USA has a balanced, appropriate, transparent, and mature federal set up unlike Pakistan. After adopting the 18<sup>th</sup> Constitutional Amendment, Pakistan has chosen to become relevant to the constitutional lines of the

USA. Charter of democracy in May 2006 led the process of balanced structure of governance and decentralization process after the 18th Constitutional Amendment. Abolished concurrent list, economic decentralization, and transfer of subjects to the federating units are the significant features of 18<sup>th</sup> amendment which provided a base of cooperative federalism. Provincial role has become very important to transfer the powers to the third tier of the government for the proper implementation to have rule of law and better governance (Mussawar & Bukhari, 2013).

Federations have different ways of centralization or decentralization of powers. In some federations, the centre enjoys all the powers while in some federal systems there is distribution of powers and significant autonomy to federating units through legislative powers determined in the constitution. In Pakistan, there is a significant shift of powers in relations of centre and provinces after the 18<sup>th</sup> constitutional amendment. Provinces have new powers now which were more dependent on the centre before and CCI has a significant role to settle any matter of conflict or dispute between centre and provinces or among provinces after devolution of power through 18<sup>th</sup> Constitutional Amendment.

This study will analyse how the 18th Amendment has provided devolution of power theoretically. It will also examine the challenges faced by the federation while devolving the powers to the units. Indeed, this original research will evaluate and review the devolution of power in Pakistan. This study will provide an insight of the importance of devolution of power in federations for better administration and service delivery to cater the needs of federating units. In the case of Pakistan, constitutional arrangements and the frequently changed political system remained in transition. Hence, there is a significant change in decentralization of power from centre to provinces after the 18th Constitutional Amendment so it has become an interesting research topic for the researchers of political science in Pakistan. There are different political opinions regarding the shift of powers in administrative and fiscal arrangements from centre to provinces so this study will help to understand the impacts of implications and will highlight the challenges faced by centre or provinces while implementing

the constitutional changes after the 18th Constitutional Amendment.

### **Significance of the Research**

Federations have different ways of centralization or decentralization of powers. In some federations, the centre enjoys all the powers while in some federal systems there is distribution of powers and significant autonomy to federating units through legislative powers determined in the constitution. In Pakistan, there is a significant shift of powers in relations of centre and provinces after the 18<sup>th</sup> Constitutional Amendment. Provinces have new powers now which were more dependent on the centre before and CCI has a significant role to settle down any matter of conflict or dispute between centre and provinces or among provinces after devolution of power through 18<sup>th</sup> Constitutional Amendment. This study will analyse how 18<sup>th</sup> Amendment has provided decentralization theoretically. It will also examine the challenges faced by the federation while devolving the powers to the units. Indeed, this original research will evaluate and review the devolution of power after 18<sup>th</sup> Constitutional Amendment in Pakistan.

### **Objectives of the Study**

The main objective is to understand the autonomous role of provinces in formulating policies and projects at provincial and local level after dissolution of seventeenth ministries including education, health, food and agriculture and Zakat and Ushr. Provinces were given political autonomy after 18<sup>th</sup> Constitutional Amendment in these spheres in their domains.

### **My research will focus on the following objectives:**

1. To evaluate the major changes in the sectors of Health, Education, Food and Agriculture and Zakat and Ushr after the 18th Constitutional Amendment and the challenges faced by the centre or provinces while implementing the amendments.
2. To evaluate the devolution of power and the most recent constitutional changes in terms of Centre-Province relationship after the 18th Constitutional Amendment.
3. To investigate the measures or actions taken by provinces during the transfer of powers from Centre to provinces.

4. To elaborate the facts that how 18<sup>th</sup> Amendment empowered each province to devolve political and administrative responsibility in the chosen sector

5. To highlight or locate the gaps that how the devolution of power after the 18th Amendment was not tackled skilfully and with ease by each province.

6.

#### **Research Questions**

1. How did the 18<sup>th</sup> Constitutional Amendment decentralise the powers from centre to provinces?

2. How the 18<sup>th</sup> Constitutional Amendment empowered the provinces for institutional responsibilities and delegated subjects' related legislation?

3. How the major changes in devolution of power to the provinces in the field of education after the 18th Amendment faced challenges while implementation?

4. How the challenges regarding health sector while implementations after 18th Amendment were addressed by Centre and provinces?

5. How did the major changes in devolution of power to the provinces in the field of Food and Agriculture after the 18th Amendment faced challenges while implementation?

6. How the centre and provinces dealt with the changes while implementation?

7. How thMethodology

#### **Research Methodology**

This section describes the methods and procedures used for designing the questionnaire and sampling the population to determine the impacts of the 18th Constitutional Amendment.

#### **Quantitative Survey of Public Opinion:**

The quantitative survey was conducted to seek public opinion on the themes drawn for the study to address the research questions and meet research objectives.

#### **Primary Sources / People's opinion:**

It was an open survey for the politically literate people who have a sound understanding of the 18th Constitutional Amendment and can evaluate its implementation politically and constitutionally.

#### **Population**

Respondents from all regions of the country who are literate about political, constitutional, social and administrative affairs of the country are the population seeking public opinion on the subject. The Population of the quantitative survey was public servants, political scholars, teachers, lawyers, politicians and renowned public figures who have relevant knowledge and experience about the implications of the 18th Constitutional Amendment. Politically literate people or the people with political background were the targeted population.

#### **Survey Instrument**

This survey instrument was developed from the themes extracted using thematic analysis. The themes were discussed with subject specialists and a survey instrument was designed for attaining data to analyze public opinion.

#### **Sample Design**

Snowball sampling design, which is a non-probability-based survey design, was opted for data collection using an online self-developed survey instrument to seek public opinion. Due to Covid-19 an online Survey was opted for data collection from all regions of the country. This survey has been conducted in 2020 during the pandemic.

#### **Questionnaire**

A questionnaire for the purpose of online survey was designed to collect the responses on the impacts of 18th Amendment. It consisted of two sections.

1- The first section of the questionnaire consisted of the demographical information of the respondents. This section included the basic information of the respondents.

2- Second section of the questionnaire consisted of four sets of questions.

1- Impacts of 18th Constitutional Amendment

2- Centre Province Relations

3- Devolution of Power to Provinces

4- Another Amendment to enrich Federal Role

The findings of survey determined the facts of devolution of power to the federating units.

6.7: Findings of the Survey

In three subsequent sections, the findings of each set of questions have been discussed.

**Table-6.1: Respondents' Age**

Age Group	Frequency	Percent Valid	Percent	Cumulative Percent
18-30 Years	218	51.2	51.2	51.2
30-45 Years	136	31.9	31.9	83.1
45-60 Years	57	13.4	13.4	96.5
Above 60 Years	15	3.5	3.5	100.0
Total	426	100.0	100.0	

Provincial distribution of population and ethno-linguistic representation was catered in this online survey. The ratio of population of each province was considered in the responses of the online survey. Punjab makes up 52% of the population of Pakistan so almost 50% respondents were from Punjab. Relatively the respondents from KPK, Balochistan and Sindh were less in numbers. The demographical information provided the details of gender, province, qualification, profession and mother tongue.

**Table-6.2: Province: The Respondents belong to Provinces**

Province	Frequency	Percent Valid	Percent	Cumulative Percent
Punjab	260	61.0	61.0	61.0
Sindh	52	12.2	12.2	73.2
KPK	66	15.5	15.5	88.7
Balochistan	48	11.3	11.3	100.0
Total	426	100.0	100.0	

65.3% Post Graduates, 29.1% Graduates and 5.6% Intermediate or below participated in the online survey that reflected the interest of well-educated politically literate people in the topic. Questionnaire was designed on "Microsoft Forms" and the link was shared through social media and emails

**Table-6.3: Qualifications of the Respondents**

Qualifications	Frequency	Percent Valid	Percent	Cumulative Percent
Intermediate or Below	24	5.6	5.6	5.6
Graduation	124	29.1	29.1	34.7
Post-Graduation	278	65.3	65.3	100.0
Total	426	100.0	100.0	

Politically literate and well educated people from different professions filled the questionnaire and shared their thoughts on 18th Amendment, its impacts and devolution of power to the provinces. Almost 50% respondents were educationists of renowned or leading educational institutions 12. % Social Workers, 6.8% Civil Servants, 4.5% Lawyers, 6.3% Businessmen, 7.3% Political workers, 5.6% Healthcare Professionals and 2.6% were from other professions.

**Table-6.4: Professions of the Respondents**

Professions	Frequency	Percent Valid	Percent	Cumulative Percent
Lawyer	19	4.5	4.5	4.5
Educationist	214	50.2	50.2	54.7
Government Servant	29	6.8	6.8	61.5
Businessman	27	6.3	6.3	67.8
Journalists	16	3.8	3.8	71.6
Social Worker	55	12.9	12.9	84.5
Political Worker	31	7.3	7.3	91.8

Others	11	2.6	2.6	94.4
Healthcare	24	5.6	5.6	100.0
Total	426	100.0	100.0	

Politically literate people from four provinces of Pakistan filled the online survey form. 33.8% Punjabi, 11.7% Urdu Speaking, 14.6% Pushtoons, 7.5% Balochi, 10.3% Sindhi, 15.5% Saraiki, 3.8% Hindko and 2.8% others were the respondents.

**Table-6.5: Mother Tongue of the Respondents**

Mother Tongue	Frequency	Percent	Valid Percent	Cumulative Percent
Punjabi	183	43.0	43.0	43.0
Urdu	36	8.5	8.5	51.4
Pushto	60	14.1	14.1	65.5
Balochi	30	7.0	7.0	72.5
Sindhi	45	10.6	10.6	83.1
Saraiki	43	10.1	10.1	93.2
Hindko	17	4.0	4.0	97.2
Others	12	2.8	2.8	100.0
Total	426	100.0	100.0	

### 6.7.1: Findings Regarding Impacts of 18th Constitution Amendment

This section deals with the questions related to the devolution of power to the provinces and its impact on the Pakistani federation. These questions intend to highlight the perceptions of the respondents from four provinces.

#### 6.7.1.1: Findings about Strengthening Democracy after 18th Amendment

Democracy has been derailed many times due to military intervention or other political factors in the past 73 years declaring emergency, abrogating the constitution and imposing Martial law. To assess the public opinion on this argument the respondents were asked whether the 18th Amendment played a significant role in strengthening democracy in Pakistan. 46.6% agreed and 27.7% strongly agreed whereas 10.6% remained neutral 11.7% disagreed and 3.5% strongly disagreed with it.

**Table-6.6: Findings about Strengthening Democracy after 18th Amendment**

Responses	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly Disagree	15	3.5	3.5	3.5
Disagree	50	11.7	11.7	15.3
Neutral	45	10.6	10.6	25.8
Agree	198	46.5	46.5	72.3
Strongly Agree	118	27.7	27.7	100.0
Total	426	100.0	100.0	

#### 6.7.1.2: Findings Regarding the Transfer of Ministries for the Balance of Power

To establish the argument about the balance of power between provinces and federal government, respondents were asked whether the transfer of 17 ministries created a balance of power after the 18th Constitutional Amendment. 61.7 % respondents agreed and 16.4% strongly agreed that the transfer of Ministries created the balance of power whereas 14.3% disagreed and only 04% strongly disagreed. Hence, 3.5% remained neutral in their responses.

**Table-6.7: Findings Regarding the Transfer of Ministries for the Balance of Power**

Responses	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly Disagree	17	4.0	4.0	4.0
Disagree	61	14.3	14.3	18.3
Neutral	15	3.5	3.5	21.8
Agree	263	61.7	61.7	83.6
Strongly Agree	70	16.4	16.4	100.0
Total	426	100.0	100.0	

**6.7.1.3: Findings about the Strengthened Federation**

The findings of this question highlights the importance of 18th Amendment in strengthening the federation with 45.8% agreed and 20.4% strongly agreed responses. 25.4% differ and 3.5% strongly disagreed with it whereas only 4.9% remained neutral.

**Table-6.8: Findings about the Strengthened Federation**

Responses	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly Disagree	15	3.5	3.5	3.5
Disagree	108	25.4	25.4	28.9
Neutral	21	4.9	4.9	33.8
Agree	195	45.8	45.8	79.6
Strongly Agree	87	20.4	20.4	100.0
Total	426	100.0	100.0	

**6.7.1.4: Findings about the Weakening Federation**

47.7% responses disagreed that 18th Amendment has weakened the federation supported with 10.8% strongly disagreed responses.26.3% agreed and 9.6% strongly agreed that this amendment became the reason of weakening the federation.5.6% didn't go in the favor or against the argument.

**Table-6.9: Findings about the Weakening Federation**

Responses	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly Disagree	46	10.8	10.8	10.8
Disagree	203	47.7	47.7	58.5
Neutral	24	5.6	5.6	64.1
Agree	112	26.3	26.3	90.4
Strongly Agree	41	9.6	9.6	100.0
Total	426	100.0	100.0	

Above mentioned 04 questions were regarding the impacts of the 18th Constitutional Amendment by strengthening democracy, power sharing through transfer of ministries to the provinces and strengthening or weakening the federation.

**6.7.2: Centre Province Relations**

Centre province relations are very important for a strongly administered federation. 48.7% are convinced with the support of 15.5% strongly agreed responses that 18th Amendment fulfilled the demands of provinces 26.2 respondents disagreed with 4.1 % strongly disagreed responses.

**6.7.2.1: Findings about the Fulfillment of Demands by the Provinces**

The 18th Amendment was a consensus to fulfill the demands of autonomy by the provinces. Noticeable majority agreed with this argument with 50.2% agreed and 16.9% strongly agreed. Only 5.4% were neutral and a quarter of respondents with 23.5% disagreed and only 04% strongly disagreed.



**Table-6.10: Findings about the Fulfillment of Demands by the Provinces**

Responses	Frequency	Percent Valid	Percent	Cumulative Percent
Strongly Disagree	17	4.0	4.0	4.0
Disagree	100	23.5	23.5	27.5
Neutral	23	5.4	5.4	32.9
Agree	214	50.2	50.2	83.1
Strongly Agree	72	16.9	16.9	100.0
Total	426	100.0	100.0	

### 6.7.2.2: Power Sharing to the Provinces

Overwhelming majority in favor of this amendment has provided power sharing to the provinces. 66% respondents agreed and 17.8% strongly agreed regarding the power sharing after amendment. Very less 1.2% strongly disagreed and 10.5% respondents disagreed with it whereas 4.5% remained neutral.

**Table-6.11: Power Sharing to the Provinces**

Responses	Frequency	Percent Valid	Percent	Cumulative Percent
Strongly Disagree	5	1.2	1.2	1.2
Disagree	45	10.6	10.6	11.7
Neutral	19	4.5	4.5	16.2
Agree	281	66.0	66.0	82.2
Strongly Agree	76	17.8	17.8	100.0
Total	426	100.0	100.0	

### 6.7.2.3: Centre Province Relations after 18th Amendment

18th Amendment has brought improvement in the centre-province relations. Almost 50% respondents with 11.7% strongly agreed and 40.8% agreed responses believe that the relations between centre and provinces are improved whereas 9.2% remained neutral on this stance. 34.3% disagreed and 04 % strongly disagreed.

**Table-6.12: Centre Province Relations after 18th Amendment**

Responses	Frequency	Percent Valid	Percent	Cumulative Percent
Strongly Disagree	17	4.0	4.0	4.0
Disagree	146	34.3	34.3	38.3
Neutral	39	9.2	9.2	47.4
Agree	174	40.8	40.8	88.3
Strongly Agree	50	11.7	11.7	100.0
Total	426	100.0	100.0	

These questions helped to determine the public opinion regarding the harmonious centre province relations, balance of power and fulfillment of the demands of provinces after the 18th Constitutional Amendment.

### 6.7.3: Devolution of Power to Provinces

Set of questions are regarding devolution of power to the provinces. These questions helped to get the feedback for four chosen ministries of Education, Health, Food and Agriculture and Zakat and Ushr.

#### 6.7.3.1: Centrally Designed National Curriculum

After the devolution of the Ministry of Education the most important area was a unified national curriculum for public sector all over the four provinces. 25.1% strongly agreed and 51.6 % agreed responses indicated that national curriculum should be designed by the federal government instead provincial governments. 11.7 % disagreed and 5.2 % strongly disagreed with the 6.3 % neutral responses.

**Table-6.13: Centrally Designed National Curriculum**

Responses	Frequency	Percent Valid	Percent	Cumulative Percent
Strongly Disagree	22	5.2	5.2	5.2
Disagree	50	11.7	11.7	16.9
Neutral	27	6.3	23.2	
Agree	220	51.6	74.9	
Strongly Agree	107	25.1	100.0	
Total	426	100.0	100.0	

**6.7.3.2: Maintaining the Provisions of the Quality of Education after 18th Amendment**

After transferring the subject of education to the provinces it was the responsibility of provincial governments to ensure the provision of quality of education .43.2% disagreed and 8.9% strongly disagreed that provinces played their vital role in maintaining the provisions of quality education. 32.2% respondents agreed whereas 9.6% strongly agreed with the successful provision of quality education by the provinces. 6.1% remained neutral on this count.

**Table-6.14: Maintaining the Provisions of the Quality of Education after 18th Amendment**

Responses	Frequency	Percent Valid	Percent	Cumulative Percent
Strongly Disagree	38	8.9	8.9	8.9
Disagree	184	43.2	43.2	52.1
Neutral	26	6.1	58.2	
Agree	137	32.2	90.4	
Strongly Agree	41	9.6	100.0	
Total	426	100.0	100.0	

**6.7.3.3: Syllabus and Curriculum as Joint Responsibility**

In the support of the findings of previous question 52.8% agreed and 31% strongly agreed that syllabus and curriculum should be the joint responsibility of federal and provincial governments so that national integrity can be considered and diversity can be avoided while developing curriculum and syllabus.12% disagreed and only 1.6% strongly disagreed whereas 2.6% remained neutral in sharing their views.

**Table-6.15: Syllabus and Curriculum as Joint Responsibility**

Responses	Frequency	Percent Valid	Percent	Cumulative Percent
Strongly Disagree	7	1.6	1.6	1.6
Disagree	51	12.0	12.0	13.6
Neutral	11	2.6	16.2	
Agree	225	52.8	69.0	
Strongly Agree	132	31.0	100.0	
Total	426	100.0	100.0	

**6.7.3.4: Perspectives of Regional Identities Incorporated in Provincial Curriculums**

With 59.2% agreed responses and 16.9% strongly agreed responses it can be measured that people believe to have regional identities corporate in provincial curriculums. 10.8% differed with this idea and 3.3% strongly disagreed. 9.9% respondents were neutral in their thoughts and believe in fitness for purposes.

**Table-6.16: Perspectives of Regional Identities Incorporated in Provincial Curriculums**

Responses	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly Disagree	14	3.3	3.3	3.3
Disagree	46	10.8	10.8	14.1
Neutral	42	9.9	9.9	23.9
Agree	252	59.2	59.2	83.1
Strongly Agree	72	16.9	16.9	100.0
Total	426	100.0	100.0	

**6.7.3.5: Federal Role on National Health Policy**

With 24.9% strongly agreed and 59.6% agreed responses it can be clearly stated that the majority believes in the federal role to determine National Health Policy. 9.9% disagreed and only 1.9% strongly disagreed believing in the provincial role in health policies whereas 3.8% didn't express their thoughts on it.

**Table-6.17: Federal Role on National Health Policy**

Responses	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly Disagree	8	1.9	1.9	1.9
Disagree	42	9.9	9.9	11.7
Neutral	16	3.8	3.8	15.5
Agree	254	59.6	59.6	75.1
Strongly Agree	106	24.9	24.9	100.0
Total	426	100.0	100.0	

**6.7.3.6: Centrally Controlled Authority for the Prices and Quality of Drugs**

Majority with 31.7% strongly agreed and 40.4% agreed responses in the online survey supported the idea that the quality and prices of drugs should be monitored by a federal authority. 16% disagreed and 08% strongly disagreed for the centrally controlled authority for the prices and quality of drugs whereas 04% didn't express their opinions on it.

**Table-6.18: Centrally Controlled Authority for the Prices and Quality of Drugs**

Responses	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly Disagree	34	8.0	8.0	8.0
Disagree	68	16.0	16.0	23.9
Neutral	17	4.0	4.0	27.9
Agree	172	40.4	40.4	68.3
Strongly Agree	135	31.7	31.7	100.0
Total	426	100.0	100.0	

**6.7.3.7: Regularization of Food and Agriculture**

With 23.2% strongly agreed and 35.7% agreed, the majority in Pakistan believes that the Food and Agriculture should be regularized by the federal government. 34.5% disagreed and 3.3% strongly disagreed that regularization of Food and Agriculture should be the federal subject and only 3.3% had a neutral response on it.

**Table-6.19: Regularization of Food and Agriculture**

Responses	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly Disagree	14	3.3	3.3	3.3
Disagree	147	34.5	34.5	37.8
Neutral	14	3.3	3.3	41.1
Agree	152	35.7	35.7	76.8

Strongly Agree	99	23.2	23.2	100.0
Total	426	100.0	100.0	

**6.7.3.8: Autonomy or Power to Utilize the Zakat Funds by the Provinces**

A strong majority with 19% strongly agreed and 52.3% agreed responses clearly stated that provincial governments should have autonomy or power to utilize the zakat funds for the help of needy segments and rehabilitation of the people of provinces. 6.1% neutral, 52.3% agreed and 19% strongly agreed responses supported the idea of utilization of Zakat funds by provincial governments and less than 23% responded with 19.5% disagreed and 3.1% strongly disagreed responses didn't support it.

**Table-6.20: Autonomy or Power to Utilize the Zakat Funds by the Provinces**

Responses	Frequency	Percent Valid	Percent	Cumulative Percent
Strongly Disagree	13	3.1	3.1	3.1
Disagree	83	19.5	19.5	22.5
Neutral	26	6.1	28.6	
Agree	223	52.3	81.0	
Strongly Agree	81	19.0	100.0	
Total	426	100.0	100.0	

**6.7.3.9: Fixation of Wheat Prices by the Federal Government**

Pakistan is an agricultural country that can fill the demands of wheat for the population. Wheat procurement is a serious challenge for the provincial governments. 37.2% agreed and 26.8% strongly agreed that the wheat prices should be monitored and fixed by the federal government in all provinces keeping the buying capacity of citizens. 20.4% disagreed and 12.1% strongly disagreed considering it a provincial matter. 3.6% respondents believe that it doesn't make any difference whether the federal government controls the wheat process or the provincial government.

**Table-6.21: Fixation of Wheat Prices by the Federal Government**

Responses	Frequency	Percent Valid	Percent	Cumulative Percent
Strongly Disagree	55	13.9	12.1	12.1
Disagree	86	20.2	20.4	32.5
Neutral	15	3.5	36.0	
Agree	157	36.9	73.2	
Strongly Agree	113	26.5	100.0	
Total	426	100	100.0	

Next question aims to find out the fulfilment of the demands of provincial autonomy by the provinces. Set of 09 questions were regarding the devolution of power to the provinces. The results reflected that the majority was in the opinion that provincial governments should be autonomous for policy making and its implementation.

**6.7.4: Another Amendment to Enrich Federal Role**

Keeping the pros and cons of the 18th Constitutional Amendment in mind, politically literate people from across the country were asked to share their thoughts regarding the requirement of another amendment to enrich the federal role.

More than 50% respondents across the country with 16.7% strongly agreed and 45.1% agreed responses believe that there must be another amendment that will enrich the role of federal government in deliverance. Almost 25% respondents with 20.4% disagreed and 0.8% strongly disagreed responses believing that the 18th Constitution Amendment does not need any other amendment. 9.9% doesn't find any difference whether it reverts or not.

**Table-6.22: Another Amendment to Enrich Federal Role**

Responses	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly Disagree	34	8.0	8.0	8.0
Disagree	87	20.4	28.4	
Neutral	42	9.9	38.3	
Agree	192	45.1	83.3	
Strongly Agree	71	16.7	100.0	
Total	426	100.0	100.0	

### 6.8: Conclusion

The results of the survey for public opinion seem to show satisfaction with the 18th Constitutional Amendment. Majority believes that it strengthened the federation and brought improvement in centre province relations after transfer of ministries to the provinces. Overwhelming majority supported provincial autonomy and power sharing after the amendment. Noticeable majority endorsed the idea of extended federal role in education, health and food and agriculture. Despite supporting the role of the federal government a vast majority suggest that regional identities should be incorporated in the provincial curriculum. A Significant majority want that education should be the joint responsibility of federal and provincial governments as provincial governments could not do justice with the provision of quality education. There must be National Health Policy and Drug regulation by the federal government as well. The results indicate that most of the people want another amendment to enrich the role of the federal government.

### FINDINGS, ANALYSIS AND RECOMMENDATIONS

Pakistan is a heterogeneous society with cultural differences, ethno lingual composition and ethnic diversity. Power sharing mechanism and provincial autonomy could be facilitated through the legislative instrument of 18th Amendment which provided new provisions to the characteristics of parliamentary form of Govt. empowering the parliament and reducing presidential powers.

The 18th Amendment was a serious political effort to stop military adventures or intervention to derail democracy in future but still there is not any guarantee that military takeover will not happen in future. The constitution still needs to provide the safeguard against military intervention. The 18th

Constitutional Amendment abolished Concurrent Legislative List (CLL) and the role of CCI has been revitalized. Now CCI has an extended role in decision making on all the subjects included in FLL Part II including electricity, major ports and census etc. These subjects will be in the dual jurisdiction of the federal government and CCI. Mineral and gas have also been vested along with the federal government.

Provincial share has been increased in the divisible pool of taxes in the 7th NFC Award. It has been decided that the provincial share will not be reduced in future NFC. Multiple criteria formulas have been adopted for the distribution of resources .The 18th Amendment is a major breakthrough and first constitutional step to repeal the effects of the seventeenth amendment. The Charter of Democracy provided the foundation for the 18th Amendment and this amendment represented more than 100 changes.

This amendment has redefined the multitier governance at federal, provincial and interprovincial levels through evaluating the Federal Legislative Lists (FLL Part I & II) and abolishing Concurrent Legislative List. The Federal Government's role was restricted on the 53 items of CCI, eighteen to regional governments for policy making and statutory authorities were distinguished for regional and central governments. With the reference to the eighteenth amendment seventeenth Ministries of Education, Health , Culture, Special initiative, Environment , Food and Agriculture , Labor and Manpower, Livestock and Dairy

Development, Local Government and Rural Development, Minorities Affairs, Population Welfare , Social welfare and Special Education , Sports , Tourism , Women Development, Youth Affairs and Zakat and Ushr have been devolved to the provinces and the federal government has lost its control over them. It is clearly stated in the Article 140 (A) in 18th Amendment that "Each province shall by law establish a local Govt.

System and devolve political, administrative and financial responsibility and authority to the elected representatives of the local governments.” This provided the foundation or provisions to the institutions for legislative planning including the policy spaces for the provinces to create context specific systems of governance.

Despite the fact of the devolution process, subjects have not been devolved completely. The adjustment of financial and human resources is still under process. Adequate funds could not be generated and allocated to the devolved ministries and the overlapping dual power of federal and provincial governments is still there. Federal government and provincial governments are not clear regarding the regulation of many issues including the international obligations and enforcement of fundamental rights. Different policies are still unclear for instance, future of food scarcity, shortage of energy, ecosystem, natural disasters, calamities like droughts, floods, global warming, glaciers melting etc. Provincial governments lack the resources to administer the devolved subjects. Provincial governments are keen to take up the projects which are beneficial to increase the vote banks of regional parties in government so devolution of power has taken a political turn now.

When it comes to fiscal arrangements the government needs to modify the tax structure. 75% of total GDP is constituted through the agriculture and services sector whereas the share is 19% in tax revenue so the income tax can be imposed on agriculturists, lawyers and doctors. Manufacturers should be compelled to pay the direct tax as most of them do not pay.

Local government system is not functional or strengthened yet therefore, the federal government should play an important role of mentor in the gradual transition of authority to local government. Provincial governments should also ensure the grassroot level participation through requisite mandate.

Provincial governments should extend cooperation with the central government on all major and minor issues for harmonious centre province relations. There must be centre province dialogues to resolve the issues after devolution and instead blame game both tiers of government need to support each other to strengthen the cooperative federalism in Pakistan.

The role of CCI needs to be more vigilant to develop consensus over issues. It needs to have frequent meetings with the fruitful decisions which are acceptable to the majority. It needs to institutionalize the dialogues among provinces in case of any conflict or disagreement.

Political consensus on national controversial issues is the need of time for a prosperous and stable Pakistani federation to avoid any future disintegration. Political parties and interprovincial bodies need to avoid confrontation to prevent military intervention.

The problems faced by the small provinces were frequently neglected and provincial autonomy was not taken care of by the federal government and it was continuously limiting the cosmetic modifications with buzz words only. Federal government held the subject matters with the divided jurisdiction of provinces before the elimination of concurrent legislative lists.

The 18th Amendment was a comprehensive reform package. Majority in Pakistan believe that the 18th Constitutional Amendment has strengthened democracy after reverting the powers to the PM office and making both houses more powerful. Now the president seeks advice from the Prime Minister for any appointment.

Provincial autonomy was a basic idea in creation of Pakistan according to the resolution of 1940 so transfer of 17 ministries provided provinces more autonomy in policy making and deliverance. Somehow provinces lack in human resources and technical grounds to meet the expectations. Punjab with more than 50% population somehow has managed a little well as compared to other provinces after devolution of power. Federal and provincial governments have conflicts on various issues. After the abolition of concurrent legislative list it was the mandate of CCI to resolve issues and ensure participatory federalism but CCI has no secretariat so far. It was thought that the PM will have two offices, one of the PM and the other of CCI's Chairman. There are 31 meetings of CCI after the 18th Amendment and the council has represented 07 reports so far but the presented reports were not discussed in the national Assembly or Senate successfully. CCI's role was not only to resolve conflicts but to make the centre more successful.

The 18th Amendment is a benchmark that somehow tried to cover provincial autonomy that

became a reason for the fall of Dhaka so CCI is a bridge between Centre and provinces. After devolution of power the federal government lost its interest in transferred subjects and if the federal government will still not cooperate or coordinate with provinces the gaps will be wider. Law and order has been made a provincial subject whereas it still needs to have a federal role for the national integrity through CCI. CCI needs to have two tiers for the mechanism.

Education and health are two most important devolved subjects which still need a federal role to overcome the disappointments or resented feelings of smaller provinces. The enactment of 18th Amendment redefined the whole legal and institutional framework for health and education in Pakistan. The dimensions of the challenges are different for both tiers of government and have serious repercussions on the overall governance in the framework of both subjects. Provinces have different capacities to take on the challenges so how the federal government deals with the national challenges for the devolved subjects is still very important. A tangible, consistent and sustainable response by the federal government is required to ensure the access to quality education and basic health facilities as fundamental rights. This is certainly the role of the central government to provide equal opportunities to all the citizens of Pakistan despite geographical inequalities. Some highly decentralized federalism like Germany, Canada and USA have maintained certain mechanisms for national coordination for education and health particularly.

In Pakistan, the devolution of education and health have resulted in so many debates for institutional arrangement. The access, equity and quality of both education and health require the response on national level that need to be articulated in a way that instead arrogating the autonomy of provinces must address the multifaceted challenges. This imperial study was meant to explore the role of provincial and federal governments after the devolution of power. Following recommendations are proposed because of foregoing analysis.

1- A coordinating mechanism needs to be created by the federal government for performing its role. After the devolution of ministries of health and education functions of planning and coordination should be within the mandate of federal Ministry of Interprovincial coordination.

The Human Resource Division can take on the key roles on it.

2- The Federal Government should have a fundamental role for meeting the challenges in devolved subjects. The National Education Policy 2009 had consensually agreed Strategies therefore, policy and planning of education and be taken as a core strategy document for common framework.

3- Article 25-A obligates to provide free and compulsory quality education. In this regard Article -7 of constitution describes federal and provincial governments as state so the federal government should lead and provide a basic framework. National framework for the provision of the right to quality education should be formulated by the federal government.

4- Provincial governments should have comprehensive legislation to overcome the shortcomings in the devolved ministries.

5- To take on the new roles and responsibilities Provincial Secretariats need to be more strengthened particularly in policy and planning wings.

6- Departments of devolved ministries should have revised roles of business with the subsequent approval from provincial cabinets in anticipation of new roles.

7- For the promotion of improvement and coordination for post-graduation education provinces need to develop similar autonomy bodies like Higher Education Commission. Only two provinces have separate departments with the focus of tertiary education.

8- National curriculum is the need of time that should be considered a foundation document. It can also support the provincial curriculum.

9- The Federal Government should have a substantive and supportive role for the compliance of the policies of devolved subjects. Special equity grants can be awarded to provinces by the federal government.

10- A unifying National Health Policy regardless of class and gender should be implemented in all four provinces to cover the basic health needs of every citizen of Pakistan.

11- A decline in agriculture is witnessed after the 18th Amendment as provincial governments could not cope well particularly in rural areas. Federal government needs to make a clear policy with subsidies for the farmers to enhance production and discourage the role and huge profit

of middlemen. Poverty, security, and food safety with adequate production are the real challenges for the provinces that demand special grants by the federal government. There is an urgent need for agricultural reforms to motivate the farmers for more production.

12- A Fair System for the collection and distribution of Zakat is required to ensure the proper distribution of Zakat to ensure the help and support of the poor segment of society. The Federal Government can launch a program to guide widows, orphans, handicaps and needy people to develop small businesses using these funds that will eradicate poverty and bring employment. It should be a national level program like Benazir Income Support or Ehsas Kifalat Program.

13- Distribution of Zakat funds should be free of political influence and strict check and balance would help to ensure the provision of funds to the deserving only. Functional Local System can be helpful for grassroot level support.

The 18th Constitutional Amendment has brought significant changes in the constitution of Pakistan and became the most important political consensus. It strengthened the role of Parliament and

PM's office and devolved 17th ministries for the participatory federalism by the federation and federating units. Decidedly provinces will not have a lesser share than before in the NFC Award. CCI is held responsible to settle the disputes or conflicts between federal government and federating units and has jurisdiction over the subjects included in FLL Part II. CCI and NEC are responsible for presenting the reports to both houses of parliament. Governors, judges and Chief Election Commission are appointed by the president on the advice of the Prime Minister. Number of Senators and working days of the Senate have been increased and the upper house has become more functional on legislative matters and a discussion forum. Concurrent Legislative list has been abolished and subjects are added in FLL Part II under the domain of CCI.

The 18th Constitutional Amendment is the hottest political topic in the present scenario with many political debates to strengthen the role of the federal government. Provinces are facing challenges and lack of human and financial resources after the devolution of power therefore

there is an echo of the Presidential system with more power to the federal government by some political scholars, parliamentarians and political parties.

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