Journal of Peace, Development and Communication



Volume 06, Issue 02, June 2022 pISSN: 2663-7898, eISSN: 2663-7901 Article DOI: <u>https://doi.org/10.36968/JPDC-V06-I02-26</u> Homepage: <u>https://pdfpk.net/pdf/</u> Email: <u>se.jpdc@pdfpk.net</u>

Article:	The Enigma of 18 th Constitutional Amendment: Challenges and Opportunities to The Federation of Pakistan
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Published:	30 th June 2022
Publisher Information:	Journal of Peace, Development and Communication (JPDC)
To Cite this Article:	Fareed, M. S., Zain, O. F., Sarwat, A., & Hassan, A. (2022). The Enigma of 18th Constitutional Amendment: Challenges and Opportunities to The Federation of Pakistan. <i>Journal of Peace, Development and Communication</i> , 06(02), pp. 373–385. https://doi.org/10.36968/JPDC-V06-I02-26
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The paper is a basic investigation of the eighteenth Amendment in the Constitution of Islamic Republic of Pakistan. The Amendment has been made after a long and hectic consultations and agreement addressed by all ideological groups in the parliament as guaranteed by its creators; Having arguments of cleaning the Constitution with the later undemocratic increments and cancellations. The paper analyzes how the Amendment has embraced various issues worried to the strength of a majority rule government, establishments and Federation of Pakistan. The paper discerns the worries, purposes and effects of at least all changes made in the Constitution in the areas of a majority rule government, social liberties, strength of parliament, common independence, decline in the powers of President, ideological groups, and appointment of the discussions, which emerged in the consequence of the Amendment, has been discussed. Moreover, constitutional challenges to the federation, economic opportunities to the provinces and contradiction of decentralization at district level is the key issue of this consideration.

Key words: Amendment, constitution, Federation, Republic, Decentralization, judiciary

Introduction

The introduction of new laws and changes in the Constitution is not a new phenomenon in the constitutional history of the world; sometimes this practice becomes an indicator of dynamic and progressive political culture. The constitution of a state is a political cum justice character. A state constitution is the reflection of customs, traditions, standards, values and morals of a society. The Constitution is a written document that embodies the rules of the political or social organization. These rules and regulations have laid the foundation for the country without problems or disputes. If there are problems between the legal and government departments or the people of the country and the judiciary, these rules will help to survive the country to survive this to the institutions of frequent civil war characteristics; this can be the last what each country has a nightmare.

Changes to government and laws, additions or changes to the constitution, ordinances, laws, or ordinances. The existing constitutions and regulations are subject to revision and, in principle, may be revised along with the enactment of the act by the legislator (Britannica, 2021). Because amendments to a country's constitution can fundamentally change a country's political system or government institutions, such amendments tend to follow strict procedures. The amendments must be approved by two thirds of the members of both houses (Britannica, 2021). In the introduction to his famous book Constitutional Development in Pakistan, G.W Chauhdhry once said that Pakistan has become a laboratory for constitutional experimentation (G.W.Chauhdhry, 1969).To be honest, this statement looks factual and fits with Pakistan's constitutional history. Quaid-e-Azam, as the single candidate for the chair of the Legislative Assembly, was elected president on August 11, 1947(G.W.Chauhdhry, 1969).

2. Historical facts

The Indian Government Act of 1935, which transferred more authority to the central government, has so far been adopted by the leaderships of both developing states to manage the affairs of the state. India, with its experienced leadership and charismatic political elite, created a constitution in two years, but it took Pakistan's political leadership nine years to construct the approved formula in the 1956 constitution (G.W.Chauhdhry, 1969). Both states share the same heritage but different roads leading to highways with political and constitutional destinations. Amendments in the Constitution of Pakistan had started in the time of Bhutto. In his four years' rule, seven amendments in the constitution were made(Bukhari, 2020). Bhutto reinforced their position by constitutional change, which parliament and the judiciary were weakened. The first change was about the Bangladesh'srecognition. Since then it is verysensitive issue. When new Constitution was implemented in 1973, this issue remained pending in supreme court. However, In February 1974, Pakistan had to recognize Bangladesh under pressure from Saudi Arabia's King Faisal, Colonel, Libyan Gaddafi and others. By then, it had become a single unit. He has no other chance to reunite with Pakistan (Bukhari, 2020). As a result of the recognition of Bangladesh, Pakistan's constitutional amendment is necessary. Therefore, Article 1 of the Constitution was changed as part of the First Amendment in accordance with Article 2, which relates to Pakistan's representative in the Federation of Pakistan(The Gazette of Pakistan, 1974). The second amendment was in relation to the Ahmadis declaring them as non-Muslim. The Anti Ahmadi movement began in Pakistan at the

beginning of 1950 leading to the martial law of Lahore in March 1953. This led to the dissolution of the Ministry of Daultana in Punjab e serious problems for the Nazimuddin Ministry in the Center(Bukhari, 2020).During the rule of the Bhutto, the same stirring of the type was extended in 1974.

Since Bhutto's era, a lot of amendments in the constitution were made in the reigns of different rulers. Most controversial amendments were during the reign of General Zia-ul-Haq when he made amendments to prolong his era and to strengthen his powers. One of the most significant amendments in this regard was eighth amendment according to which, the President of Pakistan was given power to dissolve assemblies on some solid grounds and to announce reelections by making changes in Article 58-2 (b) of the constitution. Unfortunately, this amendment was used thrice but not in national interest but some personal one(Aziz, 2018). Although, these powers have been reversed in the thirteenth amendment of the constitution but for the reason of its use, this amendment will be remembered as one of the most controversial amendments.

3. Analytical Analysis

The purpose of this research paper is to conduct an analytical analysis of constitutional changes in Pakistan in 2008-2015. Overall, the main purpose of the study is to analyze whether the 18th constitutional amendment is genuine, need-based and timely attempted or related to the vital interests of politicians, or reflects their political ingenuity or inability to understand judicial-constitutional methods of work. Study will also focus on the ultimate implications of such constitutional changes during this period. Constitutional analysis and analytical approach to government research have always been my area of interest. Pakistan is a state with heterogeneous federal entities, different geographic epithets and a multilingual pluralistic society. Any minor political or constitutional change that appears to be minor in nature could bring the federation into a life-size problem. On April 20, 2010, the Pakistani Parliament passed the 18th Amendment to the Constitution, which led to the decentralization of the federation. This amendment should be considered a breakthrough in the history of the Pakistani constitution, as it was argued that the amendment returned the Pakistani constitution to its original form with maximum provincial autonomy.



My point of view is somewhat different; the 18th amendment supports a model with multidimensional governance, which may not fit with the current requirements of Pakistan. For our model, to work properly, our country needs progressive leadership, experienced and targeted bureaucracy (in provinces), to work independently for national interest more, rather than focusing on province only. These properties are not always found even in the industrialized countries. The risks, without appropriate checks and credit, could be important in such an environment. I tend to work in the eye to work on this constitutional change from another corner. The Federation like Pakistan currently does not need such a change in the constitution. Among all the amendments, this amendment perhaps is the most important amendment with the strong booster. Recovered the parliamentary nature of the Constitution, new defined relations of Parliament to determine the judiciary of high-court parliamentary surveillance and to have transferred several vital roles to the provinces. This is decentralization of the obligations. However, the execution was declared as challenge by Federal Bureau Council, which is characteristic of a shifting of funds and power (Rana, 2020). The research presents the keen observation regarding constitutional change, execution of this change and effects of this new development on the federation as well as its federating units.

4. Restoration of Parliamentary Democracy

The 18th Amendment has comprehensively revised the constitution, to restore its parliamentary character and to address a number of other evolving matters, such that renaming of NWFP, the judges' appointment, and firming significant offices. For convenience, individual necessities of the amendment are mainly divided into five classes: (a) renewal of parliamentary government, (b) firming of significant bodies (c) selection of judges (d) relations between the federation and provinces, and (e) others. The 17th amendment had moved many important roles to the president and significantly strengthened his forces and decision-making arm. The 18th Amendment has entirely changed the 17th one and annulled the different legal orders of 2002; Competence of the head of the state was reduced in different aspects. For instant, prior to change, the executive of the Federation specified to the President, which can exercise him a direct or officers of authority (Article90). The change clause explains that the Executive Authority of the Federation must be exercised by the Federal Government and that the P.M is the most important manager of the Federation. The rules must also be mounted by the Central Government instead of President himself. The discretion of the Head of the state to appoint a member of the National assembly as a prime minister who, in his opinion, probably wins the trust of the majority of members of central legislature was annulled .Now the assembly must meet in 21 days after the elections and select a prime minister who has to call the President to accept the office of the Prime Minister (Rana, 2020).

Likewise, changes in Article 232 restrict powers of President to declare the emergency in provinces. Pursuant to the amended article, the declaration of a state of emergency may take place only after the appropriate resolutions passed by the competent regional council. For the usage of discretion, the declaration must be submitted to both legislatures for approval within ten days. In absence of such acceptance, the application becomes invalid after 2 months from the date of its announcement. Basic rights can be poised in a state of emergency under Article 233, however, each this kind of order must be issued to both chambers of parliament independently, which gives the Upper House an important role to safeguard the rights of the province from unjustified meddling by the central government (Bukhari, 2020). Changes in Article 58 have also been made to remove its sub clause 2(b), that authorizing the President to dismiss the legislature (lower house) at his own will in the event of a situation where the government cannot be exercised in according to the requirements of the Constitution. After deleting Article 58 sec. 2 [b] and the change in sec.58, the right of the president to receive information on all issues of domestic and international was withdrawn accordingly. The president was made bound to act upon the advice of the Prime minister and his cabinet in all relevant matters. The role of the president in the amended constitution is a ceremonial head. The president signs in the name of Pakistan. He is a quasi head of the federation. He has to appoint provincial governors, heads of constitutional institutions such as FPSC chairmen, federal ombudsman, Chief Election Commissioner (after following the parliamentary procedures), and heads of different services on the recommendation of Prime Minister, which is mandatory. In addition, a time frame has been set within which presidents are to act as recommended by the prime minister.

5. Federalism in Practice

As per Shah (2012), federalism of nearby government arrangement is more reasonable for Pakistan's circumstance regarding recorded estimation. The admired neighborhood arrangement during Musharraf period demonstrated that Pakistan's neighborhood government framework, with respects to drive sharing, is additionally severe, in the two types of government whether elective or then again powerful system arrangement. Concerning country building arrangement, which isn't prospered by the seventy is recent years likewise prey of undue sharing of government towards regions and furthermore towards nearby states, which are essential device to give central privileges to residents worldwide and in Pakistan. This device has continuously been repressed to use power in legitimate significance of country building. Asma Faiz (2015) clarifies in her book about the force of federalism and authority upon areas after eighteenth Amendment and changing progress of a majority rules system later 2008 and significant sacred revision of 2010 and the connection between the middle furthermore areas. PPP's commitment towards parliamentary majority rule government upgraded fundamentalist methodology of Parliamentarians towards individuals to thrive regular citizen government in future; thus, eighteenth Amendment in 2010 is significant achievement in Pakistani federalism. While verifiable occasions incite more improvements towards power dividing among the middle and the regions, re-organizing the league and devolution of force is vital for areas, in any case, negative relationship between the common income and government income will incite disparity inside Pakistan and will give blended finding as far as Indian and Pakistani alliance. To put it plainly, Pakistani framework is as yet experiencing established promising and less promising times like Indian framework (Faiz, 2015).

Syed Jaffar Ahmad clarifies that the impacts of military system brutally changed the unique meaning of Pakistan's federalism and some way or another federalism had been the prey of vigorous political arrangement. Some way or another, the strength of National Assembly had too been annihilated by the agents of the ethnic recognizes who needed their due share from government. Consequently, Amendment technique turned into the reason for the insufficiency of the government power. Kundi explains issues and change of these issues in the constitution of Pakistan that influences generally on working of regular citizens and interior issues advancing outside danger in light of the fact that the unsteady protected changes advance

fundamental plan of force division. Being a government type framework, it is the obligation of the middle to partition power and assets. Further, the semantic gatherings, rather than rehearsing political agreement included fuel fire and it brought about the partition of Bengal as is the region of the settlement of debates and clashes of the middle and provinces, the federalism of Pakistan has been incapable (Kundi, 1980). Dr. Hassan Askari expounded the issues of the rule of federalism in Pakistan what's more the issues of asset sharing and the job of military in planning of the constitution of 1973 and the issues because of changing situation of legislative issues, that made difficulties for the political elements for the endurance of federalism which have continuously been compromised somewhere near the ethnic gatherings of the country. In the mean time, the carelessness of the government framework likewise made snags for the future interests of the country. As per the book, military system is one of the fundamental occasions behind the protected revisions, particularly of the eighteenth Amendment and its 100 provisions (Rizvi H, A., 2006). Jaffrelot (2010) depicts the possibility of Pakistani country in a book in the feeling of Patriotism without country and the ethnic variety of Pakistani country impacts on outer too interior issues, that is the authentic prev of temperamental government framework furthermore nonstop established Amendments make political framework more fragile and that's only the tip of the iceberg testing in political, monetary, and social terms.

6. Pakistan after eighteenth Amendment

The eighteenth established alteration in the constitution of Pakistan was made in April 2010. Among its significant arrangements are those connecting with the correction of the Fourth Schedule of the Constitution of the Islamic Republic of Pakistan, 1973 containing Federal Legislative List (FLL) Part I and Part II close by Concurrent Legislative List (CLL)further 'debilitating' the national government through move of simultaneous rundown to the regions. Through eighteenth amendment, the CLL has been precluded with revisions in FLL part I and II, in a general sense modifying the division of official power among parliament and the common gatherings with huge expansion in the degree of common autonomy. The eighteenth amendment reassigned specific capacities to the alliance (to be directed by the Council of Common Interest - CCI) while degenerating different subjects to the areas (already present in CLL). Be that as it may, the entry of the eighteenth amendment has brought significant changes in the intergovernmental coordination organizations which fundamentally included reassertion of two foundations of the league - CCI also, the National Economic Council (NEC) to reinforce the common agents. It further stripped the national administration of its obligations in key advancement regions and a sum of 43 offices in 18 services was canceled in 2011/12-including Ministry of Climate (MoE) through execution commission. Eighteenth amendment process was attempted in three phases, as shown below:

Phase-I

- Zakat and Usher
- Population welfare
- Youth matters

• Local government and rural development

Phase-II

- Education
- Special education, Social welfare
- Dairy development and livestock
- Culture

Phase-II

- Food and agriculture
- Health
- Labor, manpower
- Woman development
- Minority affairs
- Sports

'Climate change and environmental science' is one of the subjects that remaining parts in CLL. Post eighteenth amendment, neither climate change nor environment change is identified in the FLL. This devolution had accordingly sweeping direction based on ecological administration in conditions of both future regulation making; requirement of present ecological regulations, rules and guidelines additionally affecting country's commitments under Multilateral Environmental Agreements (MEAs).

7. Financial Decentralization

Public preparation and public financial arranging and coordination of logical and motorized searching are:

Pre Amendment: Serial No.32, Federal Legislative

Post Amendment: Serial No.7, Part II

One of the focal points of eighteenth amendment was to venture forward towards a well-working financial federalism. It is evident that the central and provincial governments have not been worried about the crucial issue of reasonable and fair dissemination of assets between the Center and the combining units to guarantee thriving for all. Balochistan ought to have selective right to impose levy on petroleum gas and Khyber Pakhtunkhwa on power created there, just to specify two for delineation. These duties can make them rich. Their current offer in deals charge from detachable pool is all around as low as 9% and 14 percent separately. They have rich normal assets and abundance of oil, gas and power however because of low

populace get a more modest offer for merchandise they produce. The equivalent is the situation with Sindh. The presentation of the regions in gathering farming personal expense has been shocking. After the eighteenth Amendment, right to require legacy charge, and so forth, is with the areas however they are not prepared to collect such assessments on the rich and powerful. This is a typical issue both at the government and commonplace levels emerging from nonattendance of the political will to gather annual expense from the rich — the small assortment of rural personal duty — not as much as Rs 2 billion by all areas and Center in monetary year 2018-19 — is terrible.

It is basic that the option to require charge on pay, including horticultural pay, ought to be given to the Center. Consequently, the Center ought to surrender deals charge on products to the regions. This would assist the FBR with gathering Rs 5 trillion in personal assessment. By imposing deals charge on labor and products to areas would create adequate assets for their requirements. This is the best way to accomplish monetary adjustment in Pakistan.

As per the Article 167(4) of the constitution the power to raise domestic and worldwide advances was given to the territories. With the presentation of Condition 3A and 3B in Article 160 of the constitution, government share in the grant was decreased. Post eighteenth amendment, another asset reallocation recipe moved more noteworthy financing to the areas under the seventh National Finance Commission (NFC) Award of 2010. In contrast to different nations, the areas get 57.5 percent of the income gathered and the league is left with just 42.5 percent. This exchange of incomes to the regions post eighteenth amendment where on one hand weakened national government interest in the area; then again, absence of institutional limit by the regions in this manner finished into generally unfortunate climate administration.

Provincial Sustainable Development Fund (PSDF) has been laid out by the environment insurance gathering of every area under their individual climate security acts. The feasible improvement store that every area might lay out considers a formal system for financing ecological work. Yet, its wellsprings of supporting are not ensured. Awards might be made to the asset from an assortment of sources however the common ecological regulations don't make a particular, customary type of revenue for the asset's tasks. This delivers the presence of the asset unreliable, and totally subject to specially appointed financing.

Conclusion

The purpose of this academic research is to make an analytical examination of the constitutional developments in Pakistan during 2008 to 2020 in general and the focal point of the research is to analyze whether the 18th amendment made in the constitution is genuine, need based and has been introduced on appropriate time or related to the vested interests of the politicians or is the reflection of their political astuteness or incapability to comprehend the judicious-constitutional modus-operandi. The research paper has also focused on the ultimate consequences arose in wake of such constitutional alterations during the period afore mentioned. This is paradox and surprising fact that the federating units demanding maximum provincial autonomy are not ready to transfer some powers to the respective districts at gross

root level. So, decentralization at all levels must be ensured. This research paper overlooks and analyses the 18th constitutional amendment through different angles.

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