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Strengthening Democracy and Democratic Institutions in Pakistan

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# Impact of the 18th Constitutional Amendment on Federation-Provinces Relations



Parliamentary Centre  
Le Centre parlementaire

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Pakistan Institute of  
Legislative Development  
And Transparency

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## PREFACE

The 18th Constitutional Amendment has omitted the Concurrent List from the 1973 Constitution thereby adding to the legislative and administrative responsibilities of the provinces in Pakistan. This has been done, among other things, in line with the long-standing demands of the provinces for greater provincial autonomy in Pakistan. Earlier, the 7th National Finance Commission Award (NFC) also significantly altered the resources-distribution formula in favour of the provinces. How do these changes affect the Centre-Provinces relationship, especially the provincial responsibilities and rights?

The 18th amendment represents a historical consensus with far-reaching impact on the way relations between the Federation and the provinces are conducted. A greater awareness of this change and the resulting requirements of capacity enhancement and better governance need to be created at all levels of the society but especially among the Provincial legislators, Provincial government officials and the Provincial Assembly staff. It is with this background that PILDAT has commissioned this Briefing Paper on the topic of *Impact of the 18th Constitutional Amendment on Federation-Provinces Relations*.

Authored by **Mr. Shahid Hamid**, Senior Advocate Supreme Court of Pakistan and former Governor Punjab and former Federal Minister, the paper presents a concise overview of the 18th Constitutional Amendment and how, together with the 7th NFC Award, the relationships and responsibilities between the federation and the provinces and the quantum of provincial autonomy are affected.

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### Disclaimer

The views expressed in this paper are those of the author and do not necessarily reflect the views of PILDAT, Parliamentary Centre, Canada or Canada's Department of Foreign Affairs and International Trade (DFAIT)

Islamabad  
July 2010



## PROFILE OF THE AUTHOR



### Mr. Shahid Hamid

Mr. Shahid Hamid is serving as a Senior Advocate Supreme Court of Pakistan. He received his B.A. (Hons) and M. A. Economics degrees from the University of Cambridge, UK and Barrister-at-Law from the Honourable Society of the Inner Temple, London. Mr. Shahid Hamid joined the Civil Services of Pakistan in 1964 and during his career from 1964-1976, he held many portfolios ranging from district administration to provincial finance department and later as Secretary to the Chief Minister, Punjab. He has practiced as an Advocate of the High Court from 1978 onwards. He has also served as Federal Minister for Defence, Establishment & Law from November 1996 - February 1997 and as Governor of the Punjab Province from March 1997 to August 1999.



## Introduction

We are addicted to criticism. For a change we need to praise the Chairman Senator Raza Rabbani and all 26-Members of the Parliamentary Committee on Constitutional Reforms; those 982 persons and organisations who assisted the deliberations of this Committee through their valuable inputs and suggestions and all the political parties represented in the Parliament who supported the Eighteenth Amendment Bill to a unanimous conclusion. A very rare consensus has been achieved in the proceedings before and during the approval of the Eighteenth Amendment Bill by the Parliament. The vote in the National Assembly was 292 in favour and none against. The vote in the Senate was 90 in favour and none against.

The original mandate of the Committee was to propose amendments for giving effect to the Charter of Democracy signed between the leaders of the Pakistan Muslim League-Nawaz (PML-N) and the Pakistan Peoples Party (PPP). The composition of the Committee made it inevitable that consensus Constitutional Reforms would be arrived at only after the Committee went way beyond its original mandate which required only the repeal of the Seventeenth Amendment. The 26-Member Committee included only 11 from the mainstream parties, i.e., the PPP-5, the PML-N-3 and the Pakistan Muslim League (PML)-3. Other 15 members included the Muttahida Quami Movement (MQM)-2, the Awami National Party (ANP)-2, the Jamiat Ulemai-e-Islam-Fazlur Rehman (JUI-F)-2 and one each from the Balochistan National Party (BNP), Jama'at-e-Islami Pakistan (JIP), the National Party (NP), the Pakistan Peoples Party-Sherpao (PPP-S), the National Peoples Party (NPP), the Pakhtoonkhwa Milli Awami Party (PKMAP), the Jamhoori Watan Party (JWP) and Independents (IND.) The Committee accordingly extended its mandate to include the following objectives/targets for purposes of Constitutional Reforms:

1. Transparency
2. Reduction of individual discretion
3. Strengthening of the Parliament and the Provincial Assemblies
4. Provincial Autonomy
5. Independence of Judiciary
6. Strengthening of fundamental rights
7. Improving merit
8. Good governance
9. Strengthening of institutions

## Overview of the 18th Constitutional Amendment

The Constitution (Eighteenth Amendment) Act, 2010 appears to have made good progress in achieving the objectives set out at (ii), (iii), (iv), (vi) and (ix) of para 2 in addition to the implementation of a substantial part of the Charter of Democracy. The amendments do not by themselves promote transparency, merit or good governance in the political system. There also appears to be a question mark over whether or not independence of the Judiciary has been adversely affected through newly inserted Article 175-A which is a matter currently being debated before the Supreme Court of Pakistan.

### Renaming NWFP

The North West Frontier Province (NWFP) had to be re-named. In the event the new name, i.e., Khyber-Pakhtunkhwa has become controversial especially in the Hazara Division. It bears mention here that the spelling of 'Sind' and 'Baluchistan' has been changed. It is now "Sindh" and "Balochistan."

### Expanding the definition of High Treason

In Article 6 the definition of high treason has been expanded. Now an act of suspending the Constitution or holding it in abeyance or any attempt to do so shall also be high treason. Further, high treason cannot now be validated by the Supreme Court or a High Court. Whether this will deter a future would be military dictator from taking over, only time will tell.

### Fundamental Rights

The number of Fundamental Rights in the Constitution have been increased to include the right of fair trial [Article 10A], the right to information [Article 19A] and the right to education [Article 25A]. The State is now bound to provide free and compulsory education to all children from age 5 to 16 years in such manner as may be determined by law.

### Intra-Political Party Election

Article 17 has been amended so as to do away with, amongst other things, intra political party elections. The excuse being given for this change is that the law (Political Parties Act 1962) already provides for such elections. However, the fact is that a constitutional requirement is on a higher plane and consequently the popular perception is that this is a negative change.

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### **Safeguards against discrimination**

In Article 27 relating to safeguards against discrimination in services, a proviso has been added that under-representation of any class or area in the service of Pakistan is to be redressed by an Act of Parliament.

### **Role of the Senate**

The role of the Senate has been substantially enhanced. The annual report on implementation of Principles of Policy is to be placed before the Senate also. Unlike the previous position, the President cannot now promulgate an Ordinance while the Senate is in session. The number of days that the Senate may take to give its recommendations on money bills has been enhanced from seven (7) to fourteen (14). The Prime Minister and his/her Cabinet will henceforth be collectively responsible both to the Senate and the National Assembly. The number of Senate Members has been increased from 100 to 104 adding 4 seats for non-Muslims, one from each Province. The number of compulsory working days for the Senate has been increased from 90 to 110.

### **Reduction in Powers of the President**

The position and powers of the President have been reduced very considerably. All Musharraf specific provisions relating to the election to the Presidency have been removed. The President retains the right to be informed on all matters of internal and foreign policy and in regard to all legislative proposals, but cannot now require a report on any administrative or other matter. Time limits have been fixed for the President to act on the advice given to him by the Prime Minister and his Cabinet. The President's discretionary powers to dissolve the National Assembly or to refer a question to a Referendum have been removed. The President is now to appoint the Governors, the Service Chiefs and the Chairman Federal Public Service Commission on the binding advice of the Prime Minister.

The position and powers of the Governors in the Provinces have been reduced to that of President in the Federation.

### **Qualification for Election to the Parliament**

In Articles 62 and 63 relating to qualifications and disqualifications for election to the Parliament and the Provincial Assemblies, there are some positive and some negative changes. Earlier a person was not qualified if he had been convicted for an offence involving moral turpitude or giving false evidence. This has been removed.

On the positive side, time limits for disqualifications, i.e., five years from date of release in case of jail terms, five

years from date of dismissal from public service, two years from date of compulsory retirement, have been re-introduced in place of Musharraf-era life-time bans.

### **Defection from a political party**

In Article 63-A relating to defection, the main changes, to be effective after next general election, are that disqualification for defection will be triggered on a reference made by Head of a Party [by whatever name called] in place of Head of a Parliamentary Party, and the Speaker or Presiding Officer will not be able to 'sit on' i.e., delay the reference. In this manner the position and power of Mr. Asif Zardari in the PPP, Mian Nawaz Sharif in the PML-N and Mr. Altaf Hussain in the MQM have been strengthened.

### **Presidential Power to issue Ordinances**

Article 89 relates to the Ordinance making power. Now the President can issue an Ordinance only once and that also when neither the National Assembly nor the Senate is in session. One-time extension to an Ordinance can be given by a Resolution of the National Assembly or the Senate.

### **Executive Authority of the Federation**

As per amendments made in Article 90, the Executive Authority of the Federation shall now not vest in the President but be exercised in the name of the President by the Federal Government comprising the Prime Minister and Federal Ministers. The Prime Minister shall be the Chief Executive. Rules of Business shall be made by the Federal Government and not the President.

### **Removal of Bar on 3rd Term of office of Prime Minister and Chief Minister**

The restriction on a person to be a third-time Prime Minister and/or Chief Minister has been removed. The Prime Minister is to be elected in the first round by a majority of the total membership of the National Assembly and, if there is no such majority in the first round, then in a two-man race in the second round by a majority of the members present and voting. Only a Muslim member can be Prime Minister.

### **Size of Cabinet**

The number of Ministers, inclusive of Ministers of State, has been restricted to eleven per cent (11%) of the total membership of the Parliament - or 49 out of 446 members of Parliament. In case of the Provincial Assemblies, the number of cabinet can not exceed 15 members or 11% of the total membership of a Provincial Assembly, whichever is higher. This provision is to be effective after the next General Election.

## Impact of the 18th Constitutional Amendment on Federation-Provinces Relations

### Bar on Private Practice

The Attorney-General and Advocate-Generals have been barred from doing private practice during their tenure of office. This is a most welcome change and in line with the long-standing demand of the legal community.

### Local Governments

Article 140-A relating to devolution of power to local governments has been retained and expanded to provide that elections to local governments shall be held by the Election Commission of Pakistan.

### Auditor General of Pakistan

The Auditor-General of Pakistan has been given a constitutional four-year term of office. The Auditor-General has also been empowered to audit the accounts of the Federal and Provincial Governments and all their bodies, corporations and authorities.

### Islamabad High Court

A new High Court has been set up at Islamabad. Its judges shall be drawn from all four Provinces and the Islamabad Capital Territory.

### Appointment of Judges

For appointment of judges there shall be a seven-member Judicial Commission headed by the Chief Justice of Pakistan. The recommendations of the Judicial Commission shall be sent to an eight-member Parliamentary Committee with power to reject the recommendations / nomination by not less than three-fourth majority.

The eventual fate of this particular amendment i.e., Article 175-A is to be decided by the Supreme Court of Pakistan.

### High Court Benches

Benches of the Peshawar and Quetta High Courts have been set up at Mingora and Turbat respectively.

### Validity of Interim Orders

A provision has been re-inserted into Article 199 to provide that any interim order against levy of tax or public dues shall cease to have effect after six months.

### Compulsory Retirement

Article 200 has been amended so as to do away with a provision for compulsory retirement of a High Court Judge in case he refuses to accept transfer to another High Court. High Court Judges cannot now be transferred from one court to another without their specific consent even for

short periods.

### Strengthening of the Election Commission of Pakistan

The Election Commission of Pakistan has been greatly strengthened. The term of office of the Chief Election Commissioner (CEC) has been increased from three to five years. The CEC is to be appointed in the following manner:

- i. The Prime Minister and the leader of the Opposition in the National Assembly shall agree on three names
- ii. The three names shall be sent to a Parliamentary Committee consisting of not more than twelve members of whom half from treasury benches and half from Opposition benches
- iii. The person selected by the Parliamentary Committee shall be appointed by the President

### Permanent Election Commissioners

The Election Commission of Pakistan shall have five permanent members including the Chief Election Commissioner. The Commission, and not CEC on his own, shall have power to prepare electoral rolls, to hold elections to fill a causal vacancy, to appoint election tribunals and to appoint staff of the Election Commission, etc.

### Caretaker Governments

After dissolution of the Assembly the President shall appoint a Care-Taker Prime Minister in consultation with the out-going Prime Minister and the leader of the Opposition in the National Assembly. The Care-Taker Ministers shall be appointed on the advice of the Care-Taker Prime Minister. Immediate family of the Care-Taker Ministers i.e., spouse and children, shall not be eligible to contest the elections being supervised by the Care-Taker Cabinet. Similar provisions have been provided for the Provincial Care-taker Governments.

### Imposition of Emergency

Emergency rule in any Province on account of internal disturbances can now only be imposed with the consent of the Provincial Assembly concerned. This appears to be an unworkable provision.

### Omission of Sixth and Seventh Schedules

The Sixth and Seventh Schedules to the Constitution have been omitted. Sixth Schedule included thirty-five laws which could only be amended with the prior consent of the President. Seventh Schedule included eight laws which could only be amended in the manner provided for amendment of the Constitution. Now these laws will be



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treated as any other law on the statute books.

### Changes to the Objectives Resolution

Annexure to the Constitution is the Objectives Resolution passed by the Constituent Assembly in 1949. It has been clarified in said Resolution that minorities have a right to “freely” profess and practice their religion.

### Repeal of 17th Amendment and related Orders

The Constitution (Seventeenth Amendment) Act 2003 (Act No. III of 2003), and earlier Musharraf's take over on October 12, 1999 and all subsequent Proclamations, Orders, etc have been declared void. However, the Acts, Notifications, etc during the Musharraf period have been nevertheless validated till set aside by the competent authority. The provisions are similar to what happened after Yahya Khan's tenure.

### Abolition of the Concurrent List

The Concurrent List containing subjects on which both the Parliament and the Provincial Assembly can legislate has been omitted, although Criminal Laws, Criminal Procedure and Evidence remain subjects on which both the Parliament and the Provincial Legislatures can make laws. Further:

- i. the subject of 'boilers' insofar as they relate to nuclear energy has been transferred to the Federal List;
- ii. the subjects of 'National Planning and National Economic Co-ordination including Planning and Co-ordination of Scientific and Technological Research' at serial no.32 of the Federal List Part-I have been transferred to serial no.7 of the Federal List Part-II. This transfer means that these matters shall henceforth be under the over-all policy control of the Council of Common Interests;
- iii. in place of 'National Planning and National Economic Co-ordination, etc' at serial no.32 of the Federal List Part-I we now have “International treaties, conventions and agreements and International Arbitration.” These are new additions to the Federal List;
- iv. the subjects of 'Major Ports,' 'State Lotteries,' 'Census,' 'Extension of the powers and jurisdiction of members of a police force belonging to any Province to any area in another Province,' 'Duties in respect to succession to property,' and 'Estate Duty in respect of property'

have been removed from Part-I of the Federal List; 'Major Ports' has been added to the Federal List, Part-II.

- v. Federation's powers to levy taxes on sales and purchases no longer include power to levy sales tax on services which is now therefore to be a provincial tax.

### New Entries to the Federal List

Still further the following new entries/additions have been made in Part-II of the Federal List:

- i. Electricity
- ii. Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of port authorities therein
- iii. All regulatory authorities established under the Federal law
- iv. National planning and national economic coordination including planning and coordination of scientific and technological research
- v. Supervision and management of public debt
- vi. Census
- vii. Extension of the powers and jurisdiction of members of a police force belonging to any Province to any area in another Province, but not so as to enable the police of one Province to exercise powers and jurisdiction in another Province without the consent of the Government of that Province; extension of the powers and jurisdiction of members of a police force belonging to any Province to areas outside the Province
- viii. Legal, medical and other professions
- ix. Standards in institutions for higher education and research, scientific and technical institutions
- x. Inter-provincial matters and coordination

This change means that all policy decisions on these subjects will henceforth be within the domain of the Council of Common Interests.

Still further Federation's power to entrust functions to Provinces will now be subject to ratification/approval of such entrustment by the Assembly of the concerned Province.

### Council of Common Interests (CCI)

In the above and other manners set out hereafter the Council of Common Interests (CCI) has been entrusted with

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much greater responsibilities and strengthened to cope with the increased responsibilities. It shall now be chaired by the Prime Minister. Earlier, according to Article 153, the membership or the chairmanship of the Prime Minister was not mandatory.

The CCI shall meet once a quarter. It shall have a permanent secretariat. It shall comprise the Prime Minister, 3 Federal Ministers and the 4 Chief Ministers. The list of subjects on which the CCI will have policy control has been very substantially increased by transfer of some of the subjects from the omitted Concurrent List, and some of the subjects from Part-I of the Federal Legislative List to Part-II of the Federal Legislative List as per details given earlier.

### CCI's Policy Control over Reservoirs

The CCI will now also have policy control over reservoirs in addition to natural sources of water supply. For the future, the Federation shall not build new hydro electric stations in any Province except after consultation with that Province.

### Responsibilities of the Provinces

After deletion of the Concurrent List, and transfer of some of the subjects/matters from the deleted Concurrent List to Part-II of the Federal List in the manner described earlier, the further responsibilities that stand transferred to the Provinces include:

1. Civil Procedure including law of limitation
2. Marriage and divorce, infants and minors, adoption
3. Wills, intestacy and succession
4. Arbitration
5. Contracts including partnership and agency
6. Trusts and trustees
7. Transfer of property
8. Actionable wrongs
9. Removal of prisoners from one Province to another
10. Preventive detention
11. Arms, fire-arms and ammunition
12. Explosives
13. Opium
14. Drugs and medicines
15. Infections and contagious diseases
16. Mental illness
17. Environmental pollution and ecology
18. Population planning and social welfare
19. Welfare of labour
20. Trade unions
21. Labour exchanges, employment information

- bureaus and training establishments
22. Safety of labour in mines, factories and oil-fields
23. Unemployment insurance
24. Shipping and Navigation on inland waterways
25. Mechanically propelled vehicles
26. Newspapers, books and printing presses
27. Evacuee property
28. Ancient and historical monuments
29. Curriculum, syllabus, planning, policy, centres of excellence and standards of education (except in institutions of higher education and research and scientific and technical institutions)
30. Islamic education
31. Zakat
32. Production, censorship and exhibition of films
33. Tourism
34. Auqaf

## 7th National Finance Commission Award

### No Reduction in the NFC share

The National Finance Commission (NFC) shall not reduce the share of resources allocated to the Provinces by the previous Commission. Provinces have become entitled, as of right, to the entire proceeds of the excise duty on oil in addition to the excise duty on natural gas.

The Provinces have also been given power to raise domestic or foreign loans with the approval of the National Economic Council.

### The 7th NFC Award

It would be pertinent to re-produce here the relevant provisions of President's Order No.5 of 2010 giving effect to the Award of the National Finance Commission because it is from these (additional) resources that the Provinces will eventually have to meet the financial burden of the transferred responsibilities. The relevant provisions that required to be noticed are:

“**3. Distribution of revenues.-** (1) The divisible pool of taxes in each year shall consist of the following taxes levied and collected by the Federal Government in that year, namely:

- a) taxes on income;
- b) wealth tax;
- c) capital value tax;
- d) taxes on the sales and purchases of goods

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- imported, exported, produced, manufactured or consumed;
- e) export duties on cotton;
  - f) customs-duties;
  - g) federal excise duties excluding the excise duty on gas charged at well-head; and
  - h) any other tax which may be levied by the Federal Government.
- (2) One per cent of the net proceeds of divisible pool taxes shall be assigned to Government of Khyber Pakhtunkhwa to meet the expenses on war on terror.
  - (3) After deducting the amount as prescribed in clause (2), of the balance amount of the net proceeds of divisible pool taxes, fifty-six per cent shall be assigned to provinces during the financial year 2010-11 and fifty-seven and half percent from the financial year 2011-12 onwards. The share of the Federal Government in the net proceeds of divisible pool shall be forty-four percent during the financial year 2010-11 and forty-two and half percent from the financial year 2011-12 onwards.

#### 4. Allocation of shares to the Provincial Governments.-

(1) The Province-wise ratios given in clause (2) are based on multiple indicators. The indicators and their respective weights as agreed upon are:

a) Population	82.0%
b) Poverty or backwardness	10.3%
c) Revenue collection or generation	5.0%
d) Inverse population density	2.7%

- (2) the sum assigned to the Provincial Governments under Article 3 shall be distributed amongst the Provinces on the basis of the percentage specified against each:

a) Balochistan	9.09%
b) Khyber Pakhtunkhwa	14.62%
c) Punjab	51.74%
d) Sindh	24.55%
Total:	<u>100.00%</u>
- (3) The Federal Government shall guarantee that Balochistan province shall receive the projected sum of eighty-three billion rupees from the provincial share in the net proceeds of divisible pool taxes in the first year of the Award. Any shortfall in this amount shall be made up by the Federal Government from its own resources. This arrangement for Balochistan

shall remain protected throughout the remaining four years of the Award based on annual budgetary projections.

**5. Payment of net proceeds of royalty on crude oil.-** Each of the provinces shall be paid in each financial year as a share in the net proceeds of the total royalties on crude oil an amount which bears to the total net proceeds the same proportion as the production of crude oil in the Province in that year bears to the total production of crude oil.

**6. Payment of net proceeds of development surcharge on natural gas to the Provinces.-** (1) Each of the Provinces shall be paid in each financial year as a share in the net proceeds to be worked out based on average rate per MMBTU of the respective province. The average rate per MMBTU shall be derived by notionally clubbing both the royalty on natural gas and development surcharge on Gas. Royalty on natural gas shall be distributed in accordance with clause (1) of Article 161 of the Constitution whereas the development surcharge on natural gas would be distributed by making adjustments based on this average rate.

- (2) The development surcharge on natural gas for Balochistan with effect from 1<sup>st</sup> July 2002, shall be re-worked out hypothetically on the basis of the formula given in clause (1) and the amount, subject to maximum of ten billion rupees, shall be paid in five years in five equal instalments by the Federal Government as grants to be charged on the Federal Consolidation Fund.

**7. Grants-in-Aid to the Provinces.-** There shall be charged upon the Federal Consolidation Fund each year, as grants-in-aid of the revenues of the province of Sindh an amount equivalent to 0.66% of the provincial share in the net proceeds of divisible pool as a compensation for the losses on account of abolition of octroi and zilla tax.

**8. Sales tax on services.-** NFC recognizes that 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.

**9. Miscellaneous.-** (1) NFC also recommended increase in the rate of excise duty on natural gas to Rs.10.0 per MMBTU. Federal Government may initiate necessary legislation accordingly.

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- (2) The NFC recommended that the Federal Government and Provincial Governments shall streamline their tax collection systems to reduce leakages and increase their revenues through efforts to improve taxation in order to achieve a 15% tax to GDP ratio by the terminal year i.e. 2014-15. Provinces would initiate steps to effectively tax the agriculture and real estate sectors. Federal Government and Provincial Governments may take necessary administrative and legislative steps accordingly.
- (3) Federal Government and Provincial Governments would develop and enforce mechanism for maintaining fiscal discipline at the Federal and Provincial levels through legislative and administrative measures.
- (4) The Federal Government may assist the Provinces through specific grants in times of unforeseen calamities.
- (5) The meetings of the NFC may be convened regularly on a quarterly basis to monitor implementation of the award in letter and spirit. ”

## Abolition of the Concurrent List and Centre-Provinces Relations

There have been some fears expressed that the devolution of power that has taken place from the Federation to the Provinces, through deletion of the Concurrent list, is too drastic. These fears would appear to be unfounded. None of the devolved powers are such as are likely to weaken the strength and cohesion of the Federation. Indeed, to the extent that the devolution satisfies the long-standing demands of the smaller provinces, especially Balochistan, for true provincial autonomy the devolution should contribute to long-term stability of the political system.

It is true that in India there are as many as 144 subjects in the Federal (97) and Concurrent (47) lists whereas after the 18th Amendments there are 77 subjects in our Federal Legislative list including 59 in Part-I and 18 in Part-II. The residuary powers/subjects in India vest in the Union and not in their States unlike Pakistan where all powers/subjects that are not on the Federal list are automatically provincial subjects. But then India is a Union with 28 States and 7 Union Territories whereas Pakistan is a Federation with 4 provinces only including one super-large province which, in terms of population, is more than half the country. In a Union with 28 states, and this is the number of states that has steadily grown since Indian independence, it is administratively unworkable to confer the degree of provincial autonomy that has been conferred on just 4 provinces. If Pakistan had more provinces, for example 25 as at one time envisaged by the late General Zia-ul-Haq, there would be neither the need nor even the demand for the quantum of provincial autonomy effected through the 18th Amendment.

It would be pertinent here to recall that under the 1956 and 1962 Constitutions the sum total of subjects on the Federal (and Concurrent) lists was 49. There are still many more subjects today on the Federal List (77) than there were either in the 1956 or the 1962 Constitutions.

It would also be pertinent to mention here the inclusion of the subject of "inter-Provincial matters and co-ordination" at serial no.13 of Part-II of the Federal legislative list. This subject, combined with the substantially enhanced powers of the Council of Common Interests chaired by the Prime Minister may, in future years, serve in the manner as the "inter-state commerce" clause in the Constitution of the United States in further empowering of the Federal Government to protect, defend and preserve the nation

state of Pakistan.

The crucial question now is whether the Provinces will be allowed to truly exercise the autonomy conferred on them through the 18th Amendment. OR will we continue with the past practice where, for example, local government was (and remains) a provincial subject But the Federation compelled the provinces to adopt uniform local government laws framed by federal agencies i.e., the National Reconstruction Bureau.

Much depends on how well and quickly the 18th Constitutional Amendment Implementation Commission does its work. If the federal bureaucracy hitherto dealing with the transferred subjects remains entrenched at Islamabad it is unlikely that provincial autonomy will emerge in the manner envisaged by the 18th Amendment.



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