

UNDERSTANDING THE DEVOLUTION AND EIGHTEENTH CONSTITUTIONAL AMENDMENT IN PAKISTAN: CHALLENGES AND THE WAY FORWARD

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Abstract

18th constitutional amendment that is hailed as a negotiated legislative revolution in Pakistan, attempted to restore the federal character of the state. It devolved administrative powers to provinces, granted them with more autonomy, relocated numerous subjects and affected more than 36 percent of the constitution of Pakistan. However, its implementation suffered from different setbacks. Using qualitative analysis of semi-structured interviews of politicians, academicians and civil servants, this paper identifies different challenges that adversely affected the implementation of eighteenth amendment and proposes multiple suggestions for its effective implementation. The study finds recreation of devolved ministries at federal level, increased financial liabilities of the provinces after the amendment, decreased prospects of career growth of employees in devolved ministries and retention of the financially strong ministries by the federal government as some of the obstructions in the smooth implementation of 18th constitutional amendment. Formation of effective local governments, active role by the senate's functional committee on devolution and fair fiscal transfer to provinces are some of the suggestions for its smooth implementation.

Keywords: Eighteenth constitutional amendment, devolution, challenges in 18th amendment

Introduction

Pakistan has an uneven and chequered political and economic history (Belokrenickij & Moskalenko, 2013). The autonomy of the provinces has been one of the key issues since the time of its independence (Khan, 2014). Pakistan adopted India Act 1935 as its interim constitution after independence which undermined its federal character and turned it into a centralized state by compromising the autonomy of its provinces (Habib, 2020). The early demise of Quaid-e-Azam Muhammad Ali Jinnah, the founding father of Pakistan, also derailed the lawmaking process and it took nine years for Pakistan to have its first constitution in 1956 which made Pakistan a federal republic (Shahid, 2015). This constitution was abrogated in year 1958 and was replaced with a presidential form of constitution promulgated by the military regime in year 1962 (Raja & Hussain, 2015). The constitution of 1962 was again repealed after the dismemberment of Pakistan and was replaced with the third and last constitution promulgated by the government of Zulfikar Ali Bhutto on 14th August 1973 under which parliamentary form of government was adopted. Apart from the constitution of 1962, the constitutions of 1956 and 1973 were introduced democratically (Zaman et al. 2018).

The constitution of 1973 lost its federal character due to multiple amendments made in it (Rizvi, 2010). As many as 25 amendments were made in it till year 2018 out of which the eighth, seventeenth and eighteenth amendments are the most noticeable ones. Eighth constitutional amendment was orchestrated by General Zia-ul-Haq under which the powers were centralized and president was allowed to dismiss the elected Prime Minister (Wasseem, 1992). Seventeenth constitutional amendment was passed in 2003 during General Pervaiz Musharraf's regime and gave the constitution a quasi-presidential outlook by making the president the most powerful figure in the country (Khan, 2014). Both these amendments significantly altered the original parliamentary character of 1973's constitution and restricted the constitutional rights of parliament as well (Chandio, 2014).

Eighteenth constitutional amendment attempted to reverse all these changes. It aimed to restore the 1973s' constitution to its original form and turn Pakistan into a strong federation by giving maximum autonomy to the provinces. But the implementation of this amendment suffered from multiple setbacks (Rana, 2020). The implementation challenges increased further during the Covid-19 as provinces had to operate under the central command of federal government. Moreover, the discussions to undo it also got intensified after 2018 elections (Hussain, 2019).

This paper attempts to identify different challenges that adversely affected the implementation of eighteenth constitutional amendment and eventually hampered devolution in Pakistan. It also proposes different suggestions to improve the implementation of eighteenth amendment and ensure devolution. In doing so, it answers two research questions: what are the key factors influencing the successful implementation of eighteenth constitutional amendment and what are the strategies or solutions effectively implement eighteenth constitutional amendment? It also contributes to the literature by addressing a gap by focusing specifically on the implementation challenges of eighteenth constitutional amendment. While there are studies on eighteenth constitutional amendment, we find that the studies specifically focusing on the solutions for effective implementation of eighteenth constitutional amendment are very limited. Qualitative approach was adopted to carry out this study and findings were drawn from the thematic analysis of qualitative data gathered through semi structured interviews. Purposive sampling technique was used to carry out this study and sixteen semi structured interviews of politicians, academicians and senior civil servants were carried out. All the interviewees were directly associated with the implementation of eighteenth constitutional amendment and had worked in the departments of devolved ministries such as education, health, environment protection and population welfare or had studied the amendment in detail.

The paper is divided into different parts. The first part comprises of introduction. After introduction, the second part briefly discusses the meaning of devolution. The third part explains the eighteenth constitutional amendment in detail. The fourth part discusses the methodology adopted for this paper. Findings comprising of challenges that affected the implementation of 18th constitutional amendment and devolution along with the suggestions for the effective implementation of eighteenth constitutional amendment are mentioned in the fifth part of the paper. The last part of the paper comprises of conclusion and suggestions for the future studies.

Literature Review

Devolution

The term devolution has multiple definitions and its meaning has evolved over the period of time (Jacobs & Chavhunduka, 2003). It is one of the three types of administrative decentralization along with deconcentration and delegation (Rondinelli et al., 1983). Administrative decentralization is considered to be a process in which transfer of responsibilities takes place from the central governing body to the lower tiers of authority in an institutional framework. It has become one of the most notable political trends in democracies worldwide over the last thirty years (Jeffery, 2009). Deconcentration is a process that results only in the transfer of responsibility from the front line managers to the officials located in the periphery without any transfer of actual autonomy or real decision making authority. Delegation, on the other hand, results in a complete transfer of administrative responsibility from the central governing body to a semi-autonomous body on contractual basis (Yuliani, 2004).

Devolution is a form of decentralization where the policy making and service delivery process is transferred to the elected sub national governments (Mukonza & Chakauya, 2012). It is also defined as the transfer of administrative and political authority from the federal to the regional tiers of the government (Average, 2010). Decentralization often results in devolution and vice versa but it is not necessary that decentralization always result in full devolution of responsibility to the lower tiers of the government (Pereirra et al., 2006). However, the devolution that took place under the eighteenth constitutional amendment in Pakistan was complete and thorough process accompanied with full administrative and financial devolution.

Literature has pointed out multiple challenges associated with devolution process. Some of the challenges include inadequate resources and understaffing of devolved facilities (Masaba et al., 2020; Oommen, 2006), asymmetrical devolution i.e. devolution of powers to only some provinces or parts of the country while ignoring others, dependency of local government on central governments for funds and resources, difficulty and delay in transfer of funds to devolved entities (Miriti, 2016; Ngigi & Busolo, 2019), poor coordination between devolved institutions (Mohapatra, 2013), low or poor fiscal allocation to the local governments and devolved entities, jurisdictional overlapping (Himsworth, 2007), inability of the local government entities to collect taxes (Marjit, 1999), Covid-19 (Chigiya-Mujeni, 2021), tense central-local relations characterized by trust deficit (Devas & Delay, 2006) and incapacity of employees due to poor training (Korir, 2013; Ngigi & Busolo, 2019). The solutions identified by the literature to ensure effective devolution include effective fiscal devolution, granting authority to the local governments to raise tax and non-tax revenue, making financial allocations to local governments and devolved entities based upon some developmental criteria, overcoming political control and bureaucratic incompetency and adequately staffing of devolved entities (Mohapatra, 2013).

Eighteenth Constitutional Amendment

Eighteenth constitutional amendment was passed in April 2010 and is considered to be the most significant attempt to restructure the constitution of Pakistan (Cugelman, 2012). 1973s constitution of Pakistan, which is a detailed and a comprehensive document comprising of 27 chapters, 12 parts, 280 articles, five schedules, a preamble and an annexure was significantly altered because of this amendment. More than 100 articles constituting about 36 percent of the constitution were affected by this amendment. 69 articles were altered, 20 articles were substituted, 7 articles were inserted, 3 articles were deleted and one article was repealed. Other major changes included the omission of sixth and seventh schedules, deletion of

Concurrent list from the Fourth Schedule, removal of the article 58(2)b that gave president the power to dissolve the national assembly, changes in the Federal list-I (the exclusive domain of the Federal Parliament/Government) and Federal list-II, barring the federal planning bodies from designing and planning any development project without the involvement of National Economic Council and Planning Commission, reformation of Council of Common Interests, National Economic Council and National Finance Commission and renaming NWFP as Khyber Pakhtunkhwa in order to settle the identity issue of the population of province (Hussain & Kokab, 2011).

The ministries that were devolved under the eighteenth constitutional amendment included the ministries like education, health, environment, social welfare, population welfare, zakat and usher, tourism, women development, sports, culture and information, local government and rural development, food and agriculture, labor and manpower, minorities' affairs, special education, youth affairs, livestock and dairy development (Haq, 2018). The amendment also made it mandatory for the provinces to take into account the district level bodies while designing and planning the projects in order to promote bottom up approach of development, protected the share of provinces in National Finance Commission (NFC) award, equally divided the shares in natural resources between the federal and concerned provincial governments and declared any act of subversion, abrogation, suspension and abeyance of the constitution as an act of high treason by adding a clause in article 6 of the constitution (Chandio, 2014). Under this amendment, three more fundamental rights including the right to fair trial and due process, right to information and right to education were also added and number of working days of senate was increased to 100. The amendment also increased the number of seats in senate to 104 by giving one additional seat to the religious minorities, made parliament responsible for the appointment of Chief Election Commissioner and also transferred powers to the prime minister to hold referendum and compile and consolidate its results (Musarrat et al., 2012). The 18th amendment also affected the size of the cabinet and allowed the prime minister to have five advisors, made mandatory to take the consent of the provincial assembly in case if there is a need to impose emergency rule in any province and declared that the share of provinces, when it comes to the distribution of National Revenues through NFC award, cannot be reduced than the share that was decided in the previous award (Khan, 2019). In order to ensure the devolution and timely transfer of 17 ministries to the provinces and to overlook the financial, administrative, structural, legal and international aspect of the devolution, an implementation commission was also established.

Methodology

Qualitative approach was adopted to carry out this cross-sectional study. Purposive sampling technique, which is the type of non-probability sampling, was employed for the completion of this research. Semi structured interviews of the participants that comprised of six civil servants, five politicians and five academicians were carried out to collect in-depth information. The interviews were carried out between December 2021 and April 2022 and were recorded after seeking permission from the participants. The civil servants had a minimum experience of 6 years and a maximum experience of 19 years. Their pay scale ranged from Basic Pay Scale (BPS) 17 to BPS 20 and they belonged to education department, health department, environment protection department, special education department and population welfare department. These departments were devolved under the eighteenth constitutional amendment. Five senior politicians who have been the members of national and provincial assemblies in the past were also chosen for the study. Senior academicians

belonging to the Department of Political Science and Institute of Administrative Sciences of University of the Punjab were also the part of this study. Questions such as “what were the factors that adversely affected the implementation of eighteenth amendment” and “how the implementation of eighteenth amendment and devolution can be ensured” were asked. Cross questioning in repose to their answers was also done in order to develop a better understanding with respect to 18th constitutional amendment and its implementation.

Analysis

We carry out the thematic analysis of the data collected through semi-structured interviews. The recordings of the interviews were transcribed. To ensure the trustworthiness of the study (see Lincoln & Guba, 1985), we followed the structured approach to carry out the thematic analysis as suggested by Nowell et al. (2017). First, we familiarized ourselves with the data after going through it for multiple times. We then inductively coded the data and then identified the themes. We then reviewed our themes, gave them the titles and described them. Multiple challenges that adversely affected the implementation of 18th constitutional amendment and various suggestions for its smooth implementation were identified through this thematic analysis. They are discussed below

Challenges for devolution and the implementation of 18th constitutional amendment:

Increased financial liabilities of the provinces

One of the major reasons behind the poor implementation of eighteenth constitutional amendment as highlighted by three of the interviewees was the increased financial liabilities of the provinces after the amendment due to the complete absence of funds for devolved ministries or due to the partial and incomplete transfer of funds from the federal government. This issue is identical to the issue identified by Masaba et al. (2020) and Miriti (2016) who pointed out difficulty and delay in transfer of funds to devolved entities and shortage of funds for the devolved systems as a major challenge in devolution. One of the interviewees belonging to the Special Education Department mentioned that:

Soon after the eighteenth amendment, provinces were required to create new departments which needed a lot of budget or they had to manage the previously existing departments that were devolved. Both required a lot of financing which was supposed to come from federal government. However, only partial transfer of funds took place and in many cases, no funds were transferred at all owing to which the financial dependence of the departments increased. This not only reduced their performance but also curtailed their autonomy and eventually negatively affected the implementation of eighteenth amendment.

Another interviewee belonging to the Population welfare department mentioned that:

Some ministries were transferred without the complete transfer of resources and there was also no clarity regarding the division of resources which left provinces financially burdened and confused.

An interviewee belonging to the Health Department informed that:

The health department suffered the most due to lack of funds at provincial level and many of its vertical programs did not receive any funding from the federal government at all.

This finding is similar to the findings by Khan (2019), Mustikhan (2015) and Seidle & Khan (2012). This eventually became one of the major reasons behind poor implementation of eighteenth amendment.

Decreased prospects of career growth of transferred employees

Another theme that regarding the challenge that hampered the implementation of eighteenth amendment was the decreased prospects of career growth of transferred employees. Two of

the interviewees mentioned this issue and highlighted that one of the consequences of eighteenth amendment that also negatively impacted its implementation was the ambiguity in promotion of transferred employees. One of the interviewee belonging to the Environmental Protection department mentioned that:

After the eighteenth amendment, the provincial governments had no plan and resources to ensure the promotions and career growth of employees in the devolved departments. The promotion prospects of the transferred officers were very unclear and uncertain which resulted in the loss of their motivation and eventually slowed down the implementation of eighteenth amendment. Even though we had tried a lot to sort out this issue, but somehow, this issue still exists.

Financially strong ministries retained by the federal government

Another theme highlighting the challenge in the effective implementation of eighteenth amendment was the retention of financially strong ministries by the federal government. Three of the interviewees highlighted this issue. It was revealed that the financially autonomous and profitable ministries and institutions were retained by the federal government and the ministries and departments which were financially dependent and had more liabilities were transferred to the provinces. One of the interviewees belonging to academia highlighted that:

It was very surprising when we see that financially well-off institutions like Pakistan Bait-ul-Maal, Employee Old Age Benefit Institution and the Workers Welfare Fund were retained by the federal government and not transferred to the provinces. This, to me, was a major reason behind ineffective implementation of eighteenth amendment and it was also against the spirit of devolution as provinces should be given autonomy in these areas as well.

Limited autonomy of provinces in some subjects

Grant of limited autonomy to the provinces was another challenge that was identified during analysis of the interviews. This is also identical to the issue of asymmetrical devolution as identified by (Mohapatra, 2013) in a way that some subjects were completely devolved while others were not. Three of the respondents highlighted this challenge. It was mentioned by one of the politician respondents that:

Provinces were given no legislative autonomy in some subjects and they had to constantly rely on federal government for guidance which slowed down the implementation of eighteenth amendment.

Another politician respondent mentioning the limited autonomy of the provinces highlighted that the provinces had less autonomy to borrow from the foreign bodies but they had the autonomy to raise the penalties for different offences and to formulate region specific policies without getting a prior approval from the federal government. Third respondent who was also a politician mentioned that

Many of the issues like law and order, natural resources and security of the troubled areas of Balochistan and KPK have been under the control of federal government owing to which true devolution hasn't taken place yet. For devolution, provinces should be given autonomy regarding these issues.

Poor training of the civil servants

One of the civil servant respondents mentioned lack of training of civil servants and hasty implementation of the eighteenth amendment became the reason behind ineffective implementation of the amendment. This cause is also identified by Korir (2013) and Ngigi & Busolo (2019). This civil servant belonged to the Education Department. He mentioned that: Employees working in devolved ministries received no training and taxation rights of provinces and federal government became more ambiguous.

Jurisdictional overlapping

Four of the respondents comprising of one academic and three civil servants identified the jurisdictional overlapping of federal and provincial governments which resulted in the legislative ambiguities and delays in implementation of laws and policies as one of the reasons behind poor implementation of eighteenth amendment and incomplete devolution. This issue has also been mentioned by Himsworth (2007).

The respondent belonging to academia mentioned that:

Higher education was also devolved to the provinces under the eighteenth amendment but many of its matters were still governed by the federal government. Matters such as higher degrees from abroad, equivalence certificates, management of foreign scholarships and multiple campuses of universities in different provinces are still governed by the federal Higher Education Commission (HEC) formed under HEC Ordinance 2002 and the presence of both provincial higher education commissions (PHECs) and federal HEC has created severe jurisdictional overlapping and confusion for the universities as they continue to receive directions from both these bodies. This has also undermined the spirit of eighteenth amendment and has adversely affected its implementation.

Civil servant respondent who belonged to the Environmental Protection Department highlighted the duality by mentioning that:

Pakistan Environmental Protection Act 1997 still existed even though the provinces have enacted their own Environmental Protection Acts after the devolution of this subject which has caused immense confusion regarding environmental governance.

Another civil servant mentioned that the drug control function of Ministry of Health was kept under the jurisdiction of federal government and power generation was devolved to the provinces but important decisions pertaining to the tariffs and revenue collection were still made by the National Electric Power Regulatory Authority (NEPRA). The third civil servant also mentioned this jurisdictional overlapping and stated that as one of the consequences of eighteenth amendment, fissures were also created in the revenue collection authority of Federal Board of Revenue (FBR) which resulted in scattered tax collection and made the tax payers pay taxes to both federal and provincial tax authorities.

This jurisdictional overlapping has also been highlighted by Gul (2019), Khan et al., (2014), Mahmood (2018) and Rehman (2018) as among the reasons behind poor implementation of devolution.

Recreation of devolved ministries at federal level after eighteenth amendment:

Two civil servant respondents belonging to the health department and education department and one politician highlighted the recreation of ministries as another factor that impeded the

implementation of eighteenth amendment and went against the spirit of devolution. Respondents mentioned that soon after 18th amendment, several devolved ministries comprising of ministry of education, climate change, health, culture, human rights, population and welfare, food and agriculture were recreated at federal level. The respondent belonging to the health department mentioned that:

Ministries were recreated at federal level to enhance the coordination with international donors and fulfill their requirement to have federal mechanism in place to secure grants for programs like National Programmes on Malaria, TB, AIDs and EPI. This also became another reason behind the ineffective implementation of 18th amendment.

The civil servant belonging to the education department also informed that:

Ministry of Education and Training was created at the federal level to fulfill international obligations. National College of Arts and Pakistan Chair Abroad have also been transferred to the Ministry of Federal Education and Professional Training which was against the spirit of 18th amendment. Similarly many other provincial subjects were with irrelevant federal ministries like Foreign Office and Ministry of Inter-provincial Coordination which went against the spirit of 18th amendment. I think that this is mostly because of federal bureaucracy's attempt to remain relevant and have more power.

The respondent who was a politician also highlighted this and stated that this recreation of ministries at federal level not only undermined eighteenth amendment but also increased confusion pertaining to the jurisdictional matters and eventually became a reason behind poor implementation of 18th amendment and was also criticized by few other legislators.

Absence of local governments

Two of the respondents comprising of one politician and one academician highlighted absence of local government as a major blow to devolution. One of the politician respondents mentioned that

The local governments are considered to be the nursery of democracy. Article 140A was inserted in the constitution which made it mandatory for the provinces to form local governments but provinces were unable to form local governments and struggled to create a legal framework for local governments for a long period of time. Punjab, however, was able to restore local bodies but after the intervention of Supreme Court but this absence of local governments for a long period has affected 18th amendment in worst possible way.

The respondent who was academician mentioned that

Having local governments was made mandatory by the 18th constitutional amendment but absence of local governments resulted in centralization of power which resulted in deterioration of service delivery and made the provincial bureaucracy powerful thus inhibiting the citizens from availing the benefits of democratic devolution.

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This is very much in line with Abdullahi & Chikaji (2017) who highlighted that the participation and empowerment of people, local development and smooth service delivery can only be ensured through the local governments.

Centralized Mindset of Bureaucrats

Two of the respondents who belonged to academia mentioned the centralized mindset of the civil servants as an inhibiting factor in the smooth implementation of eighteenth amendment.

One of the respondents belonging to the academia mentioned that:

The centralized mindset of the civil bureaucracy is basically the root cause of many problems including the poor implementation of 18th amendment. These civil servants are least concerned with the welfare of citizens and are not approachable by the ordinary masses. Devolution cannot take place till this is changed.

Second academician respondent also highlighted that:

Lack of meaningful civil service reforms was the major reason behind the centralized mindset of bureaucracy which adversely affected the implementation of eighteenth amendment. The centralized mindset is further strengthened due to lack of meaningful reforms in civil services at federal and provincial levels and also due to absence of local governments.

This finding is consistent with Mohapatra (2013) who suggested to have less political and bureaucratic control for devolution to sustain.

Trust Deficit between Federal and Provincial Governments

Two of the politician respondents mentioned the trust deficit between federal and provincial governments as another reason that impeded the devolution and stymied the implementation of eighteenth amendment. Tense central-local relation has already been identified as one major challenge of decentralization by Devas & Delay (2006).

One of the politician respondents mentioned that:

There always has been a severe trust deficit between the federal and provincial governments after the 18th amendment. Federal government is always found to be skeptical about the performance of the provinces and provincial government often accuse the federal government of inadequate transfer of funds. This kind of hostile relationship between federal and provincial governments has also compromised the effectiveness of 18th amendment.

The second respondent also stated that

The growing schism between the federal and provincial governments has resulted in weak corresponding structures and systems. The communication channels between federal and provincial governments have become weaker or non-existent particularly after 18th amendment. It has now become indispensable to restore trust between the federation and the provinces and provinces also need to strengthen their technical and administrative capacity to efficiently manage their new powers for smooth implementation of 18th amendment.

Covid-19 and disagreement between the politicians:

Three respondents that comprised of one civil servant, one academician and one politician mentioned Covid-19 as a reason that adversely impacted the implementation of 18th amendment. The civil servant respondent mentioned that:

Covid-19 is also threatening the 18th amendment immensely. As you see, every province handled Covid-19 differently. Khyber Pakhtunkhwa and Baluchistan took different decisions regarding imposition of lockdowns. Sindh undertook a different approach and implemented different policies to manage Covid-19 as compared to the policies adopted by Punjab and suggested by NCOC (National Command and Operation Center). Although a centralized NCOC was formed to tackle Covid-19 but differences were observed in the practices of provinces regarding Covid-19 management. This made the federal government feel that 18th amendment was an obstacle in their path to manage Covid-19 in provinces.

The academician respondent mentioned that:

Disaster management is basically a provincial subject now after 18th amendment but the federal government tackled Covid-19 centrally through NCOC owing to which the Federal government considered 18th amendment as an obstacle in management of pandemic and considered it as one of the reasons behind perceived lack of control and ineffective response of the provinces during the pandemic. This has brought 18th amendment under criticism.

The politician respondent mentioned that

There is a serious lack of consensus among the politicians with respect to the management of Covid-19. Important political figures like the former Prime Minister Shahid Khaqan Abbasi, Mr. Asad Umer and Mr. Shah Mahmood Qureshi supported the undoing of the eighteenth amendment in order to manage Covid-19 while Pakistan People's Party (PPP) which is one of the largest political parties of Pakistan is vehemently opposing the efforts to reverse the eighteenth amendment. Also, the healthcare systems of provinces operate under different provisions and regulations which cause unnecessary delays and create heterogeneity in decision making during Covid-19. I don't understand how National Disaster Management Authority and federal health secretary can exist at the same time after devolution? This is against devolution and all these things have brought 18th amendment under criticism.

Chigiya-Mujeni (2021) also mentioned Covid-19 as a major obstruction towards devolution in Zimbabwe. However, this challenge was very much in contrast to Warner et al. (2021) and Zhanda & Chitongo (2023) who highlighted about the importance and need to have decentralization to overcome Covid-19.

Single National Curriculum (SNC) and 18th Amendment:

Two of the respondents who are academicians mentioned the implementation of single national curriculum (SNC) as another reason that brought the 18th amendment under more criticism. One of the academicians mentioned that

Introduction and implementation of SNC is not only centralizing the curriculum development but is also violating the principles of federalism, democracy and provincial rights as the

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subject of education, formation of education policies and standards, planning and development of curriculum and syllabus falls under the purview of the provinces after eighteenth amendment. So this is also against devolution and 18th amendment.

The second respondent also mentioned that single national curriculum (SNC) had also damaged the spirit of devolution which was promoted through 18th constitutional amendment. He expressed that:

All the provinces in Pakistan are ethnically and linguistically different. Education was made a provincial subject after 18th amendment but now we see single national curriculum is being implemented which of course is another blow to 18th amendment and the spirit of devolution as it deprives the culturally different provinces of their rights and aims to promote a mindset that is more concerned with security and focused on religion.

Karachi Urban Flooding and 18th Amendment:

Two of the politician respondents also mentioned Karachi urban flooding as another blow to the eighteenth amendment. One of the respondents said that:

When Karachi was facing worst urban flooding, the federal government announced the package of more than Rs. 1 trillion for its relief. But as you saw, there were disagreements between the federal government and the government of Sindh regarding the distribution and utilization of this package. Federal government wanted to keep a check on it while Sindh government wanted to use it according to its own will. This confrontation is also bringing eighteenth amendment under criticism.

The second respondent mentioned that

The confrontation between the federal and provincial government occurred regarding the distribution and utilization of relief funds. It is so extreme that even the federal ministers have categorically mentioned that federal government is unable to play its role in improving the situation of the city because eighteenth amendment has taken its powers to intervene and take decisions regarding the improvement of provinces away.

Suggestions for effective implementation of 18th constitutional amendment and ensuring devolution in Pakistan

Themes that were identified from the interview data and mentioned ways to ensure devolution and suggestions to make the implementation of eighteenth amendment smoother are as follows.

Strengthening the Role of Senate's Functional Committee on Devolution, Ministry of Interprovincial Coordination and National Economic Council

Three of the senior civil servant respondents mentioned the importance of senate's functional committee on devolution for implementation of eighteenth amendment while two of the academicians highlighted the role that could be played by National Economic Council and Council of Common Interest in ensuring devolution and in successful implementation of 18th amendment. One of the civil servants informed that:

This committee is responsible for monitoring the government's activities on devolution, gathering and evaluating information related to devolution, identifying issues for legislative review and recommending the senate for future course of action. However, the effectiveness

of this committee has significantly reduced due to frequent delays in its decision making. It has to operate more effectively if devolution has to become a success.

While highlighting the ineffectiveness of the decisions taken by this committee, the other civil servant pointed out that:

There is a dedicated committee of Senate to oversee devolution but its recommendations are hardly given any weightage. In fact, some of the items on its agenda list have been there for more than two years and sometimes even more. For instance, the progress report of the petition regarding the transfer of 172 Acres of land of the Pakistan Tourism Development Corporation located at Gadani Fish Harbor remained on the agenda for four consecutive years. Similarly, no actions were taken on the recommendations made by this committee. This committee recommended the creation of mechanism to oversee devolution but no substantial action was taken in this regard. It also recommended strengthening the local governments by providing them with more administrative powers and resources but no action was taken regarding this as well. How can devolution take place when the committee to oversee it is itself not effective?

The third civil servant while highlighting the moribundity of this committee mentioned that:

The eighteenth amendment cannot be implemented till this functional committee is completely active and taken seriously. The committee had recommended the establishment of an independent Secretariat of the Council of Common Interest but it was not created. The minister of interprovincial coordination, who has an integral role to play with respect to devolution, remained absent during the meetings of this committee. This has to stop if devolution has to be seriously implemented.

Out of the two academicians who highlighted the importance of National Economic Council and Council of Common Interest in successful implementation of 18th amendment mentioned that

Ministry of Interprovincial Coordination, which was also serving as the secretariat for the Council of Common Interests, needs to put forward and solve the concerns expressed by the provinces.

The other academician respondent mentioned that

If 18th amendment is to be implemented, it is important that the mechanisms used for inter-provincial coordination are used creatively and communication and cooperation within the provinces and between the provinces and federation is enhanced. Similarly, a comprehensive policy and operational framework is required to enhance the institutional capacities of ministries, divisions and departments operating at both the federal and provincial level. It is also important that technical support and specialized services are provided to the provinces in the areas of policy making, transition and devolution management if the devolution is to be ensured.

Formation of effective local governments

Two respondents comprising of one academician and one politician stressed the importance of local governments for the devolution to exist. This also has been pointed out by Marjit (1999) who advocated for the creation of local governments having authority to generate revenue. The academician mentioned that:

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Devolution cannot take place unless both the fiscal and administrative powers are transferred to the districts. Sadly, this has never happened in Pakistan and local governments that existed for a few years lacked actual authority. Having local government is also mandatory for true democracy to exist. So, for devolution to materialize, we first have to form local governments.

Civil service reforms, training of civil servants and need to be on one page

Two of the respondents who were academicians mentioned the need to reform civil services and provision of adequate training to the civil servants as a pre-requisite for the effective implementation of 18th amendment and ensuring devolution as also suggested by Korir (2013). One of the academicians while providing further details about reforms mentioned that:

It is only Musharraf who tried to reform civil service and majority of the administrative powers of the important positions like that of deputy commissioner were transferred to the elected representatives and name of the deputy commissioner was changed to also district coordination officer. But these reforms have been undone now and the office of Deputy Commissioner was restored with all its original powers. Devolution can never take place in such circumstances.

The second respondent suggested that

There is a strong need to reform civil service if power is to be transferred to the grass root level. Attitudinal reformation of civil servants should be carried out in order to make them more citizen-oriented. Power should be instantly transferred to the elected representatives which is only possible in the presence of local governments. Sadly they don't exist.

Fair fiscal transfer and change in formula of NFC

Four of the respondents mentioned the need of creating fiscal equalization between the provinces and the districts of the provinces to achieve devolution. These respondents comprised of one politician, one civil servant and two academicians. Fairness in fiscal transfer to the devolved entities and regions for ensuring devolution has also been pointed out by many scholars such as Masaba et al. (2020), Oommen (2006), Miriti (2016), Ngigi & Busolo (2019) and Himsworth (2007). As per the politician respondent:

7th NFC award attempted to generate fiscal equalization between the provinces but the equal distribution of fiscal resources from the provinces to their divisions and districts did not take place and development budget was retained at upper level while majority of the costs are born by the districts. This results in disparity and inequity between the divisions and districts which adversely affects various development initiatives taken within these districts. For devolution to take place there should be fair fiscal transfer at sub-regional, district, tehsil and union council levels.

The civil servant respondent mentioned that:

There always has been a discord between Punjab and other provinces. Punjab always got the major share of resources through NFC award and whenever such distribution of resources took place. This friction due to unfair distribution of resources between the provinces needs to be settled for a strong federation to exist.

The academicians also recommended the change in formula of National Finance Commission award to improve interprovincial harmony which they mentioned was equally important for devolution and for a strong federation to co-exist.

Royalty on natural resources for districts

Two of the politician respondents suggested the provision of royalty for districts as a suggestion to ensure devolution. Mohapatra (2013) also made a similar point by advocating for the financial allocations to local governments and suggesting the creation of such local governments that could generate their own revenue. One of the politician respondents pointed out a very interesting fact regarding the need to ensure distribution of royalty to the districts where oil and gas are produced. He mentioned that:

Even after eighteenth amendment, there is no policy to ensure the provision of royalty on the oil and gas to the districts where they are produced. No development is taking place in many of the districts of Sindh and Baluchistan where oil and gas is produced in abundance. Especially in Sindh, many areas like Badin, Nara taluka, Saleh Pat, Sehwan and Thano Bola Khan are still deprived of any infrastructural and human development even though major amount of oil and gas are produced in these areas. The royalty is received by the provincial governments but districts are kept deprived of it. People cannot understand the importance of devolution unless they can experience the advantages of devolution at district level. To ensure devolution and make people aware of its advantages, it is crucial that districts also receive the royalty.

Second respondent while talking about the royalty distribution issue mentioned that:

The subject of natural resources was transferred to the provinces and the royalty on these natural resources was to be increased from 11% to 50%. However, the implementation of this increase was yet to take place completely and districts were yet to enjoy the benefits of this royalty increase. People cannot enjoy devolution unless the financial resources are also devolved to the provinces and districts on equitable basis.

Conclusion, limitations and future suggestions

The paper investigated the challenges that inhibited the implementation of eighteenth constitutional amendment in Pakistan. It also attempted to provide solutions that could result in smooth devolution of power and ensure the implementation of the eighteenth constitutional amendment. It was found that increased financial liabilities of the provinces after 18th amendment, decreased prospects of career growth of employees of devolved ministries, retention of the financially strong ministries by the federal government, limited autonomy of provinces in certain subjects, poor training of the civil servants, jurisdictional overlapping, recreation of devolved ministries at federal level, absence of local governments, centralized mindset of bureaucrats, trust deficit between the federal and provincial governments, adoption of Single National Curriculum (SNC) and crises such as Covid-19 and urban flooding in Karachi are amongst the major reasons that have undermined the eighteenth constitutional amendment. However, the paper also suggests that all these issues can be overcome by strengthening the role of senate's functional committee on devolution, the Ministry of Interprovincial Coordination and the National Economic Council, formation of effective local governments, reforming civil services, providing training to the civil servants, ensuring fair fiscal transfer to the provinces, changing the NFC formula and provision of royalty to districts where natural resources are exploited.

Understanding the Devolution and 18th Constitutional Amendment

Prior to the eighteenth constitutional amendment, Pakistan had a unitary and centralized political system which made it possible for the rulers to have an immense power and exercise authoritarianism and tyranny with ease (Niazi, 2018). 18th constitutional amendment attempted to turn Pakistan into a proper federation. Having a federation or a federal system not only results in the deconcentration of power but it also brings many other advantages to the countries as it did in many developed states. It brings efficiency to the politico-administrative system as the provinces, states or the constituting units of the federation are not only in a better position to effectively solve their issues but are also empowered to do so. This effectively mitigates an undue burden on the central government, affording it the capacity to direct its attention towards matters of heightened significance, notably encompassing national security, fiscal responsibility, and infrastructural development. Furthermore, the process of devolution also serves to engender an environment conducive to innovative pursuits, as it augments the self-governance prerogatives of provinces, thereby facilitating the pursuit of novel approaches to address a spectrum of distinct challenges. However, quite unfortunately, the centralized and unitary political system of Pakistan never allowed the provinces of Pakistan to have maximum autonomy thus inhibiting the state of Pakistan from experiencing all the advantages of devolution.

18th amendment was a comprehensive attempt to restore the federal character of the state. It not only intended to enhance the autonomy of the provinces but also restructured National Finance Commission (NFC) award and inserted article 160 (3A) into the constitution which not only safeguarded the share of provinces in the NFC award but also restricted the federal government from encroaching the share of fiscal resources given to provinces. This made the 18th constitutional amendment one of the most significant and much needed changes in the constitution of 1973 as it protected the provinces from possible exploitation by the center. In consideration of the enumerated advantages inherent to the 18th constitutional amendment and devolution, it becomes an imperative to diligently orchestrate concerted endeavors aimed at ensuring its complete and effective implementation.

The findings of the study also have implications on policy and practice. Suggestions for effective implementation of 18th constitutional amendment provide strategies for policymakers and practitioners to improve implementation processes in the context of eighteenth constitutional amendment. The implementation of these suggestions can also lead to enhanced devolution and improved governance practices that may promote transparency, accountability, and efficiency within governmental institutions thus making them and the state smarter. Moreover, in the lights of finding, policymakers and government officials can also prioritize capacity-building initiatives targeted at relevant administrative bodies that were affected by the eighteenth constitutional amendment.

There are some limitations of this study as well. The findings of this study are not generalizable to other states or countries due to their unique political, social and historical contexts. Secondly, we only carried out sixteen semi-structured interviews of respondents comprising of politicians, academicians and senior civil servants using purposive sampling and did not interview ordinary citizens or other stake holders such as private business owners. This reduces the representativeness of the sample of study.

For future studies, we recommend the researchers to study devolution with respect to specific policy areas in Pakistan. We also recommend them to study the effect of devolution on policy development, policy processes and policy outcomes. We also recommend the researchers to carry out the comparative study of autonomy granted to the districts and sub districts in the

local government acts of different provinces in Pakistan after the 18th constitutional amendment. We also recommend the researchers to investigate the citizens' perspective on 18th constitutional amendment and devolution.

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