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Impact and Challenge Assessment of the Eighteenth Constitution Amendment on Pakistan

Abstract

The enactment of the 18th Constitutional Amendment in 2010 was hailed as an auspicious day in the political history of Pakistan. But, the implementation of the said amendment is limbo and challenging for the mechanism to set up the process of decentralization in an effective way did not initiate in Pakistan throughout the political course. Eleven years to post-enactment, provinces are still deprived to acquire the true benefits of this amendment viz a viz; decentralization, devolution of power, and grassroots empowerment. Although the Constitutional Implementation Commission headed by Senator Mian Raza Rabbani was formulated under Article 270AA of the Pakistani Constitution to induce the smooth transformation of responsibilities to the institutions though some aspects of its implementation are still hold up owing to missing required apparatus. This study attempts to explore the main grounds to have this amendment and its impacts on the federation and federating units. The said amendment is not implicitly applied so far due to a lack of required instruments to do so. The article is a historical account of the constitutional amendment and its impression on Pakistan. The study is segregated into two ties viz a viz impact of the said amendment on constitution and politics and challenges confronted in its implementation. Some suggestions have also been drawn for the application of the amendment in the light of analyzing the questions related to its implementation process.

Keywords: 18th Amendment, Constitution, Implementation, Parliament, democracy, government, Centre, provinces, Challenges, Concurrent list, Pakistan

Introduction:

The main aim of the constitutional amendments is to strengthen the countries' constitutional and institutional frameworks. Another reason behind the amendments is to exclude those points which weaken the democratic role of the country. The 18th amendment was the most widespread work done by the Pakistan People's Party (PPP) in the constitutional history of Pakistan. The general election of 2008 re-established democracy in Pakistan and enabled the PPP to set up the government at the federal level. The political leadership required repeal of the 17th amendment made by Musharraf which changed the constitutional form from a parliamentary to semi-presidential system. The main purpose of introducing the 18th amendment was to institute the equilibrium of powers between the president and Prime Ministership.

In the history of Pakistan, it happened the first time that the president was willing to sign the amendment which decreases his authority. The 18th amendment also includes the view that the appointments of the judges would be done by the supreme judicial commission. The emergency would not be imposed by the president without the consultation of the provincial government. His power of chief election commissioner's appointment was also abolished. The main points and subjects especially changed by the 18th amendment are the following:

1. Parliamentary and federal form of government.
2. The powers of the president decreased and the prime minister's increased.
3. The president gets the symbolic position in the state; the prime minister became the head of the government with executive powers while the president became the head of the state.¹ The administrative setup of the country was also affected by this amendment.²³

The constitution of 1973 is comprised of 280 articles, 5 schedules, 27 chapters and 12 parts. Whereas in the 18th amendment almost 102 articles were reviewed, from them 20 were replaced and 69 were changed while on the other hand 7 articles were further included and 3 articles were omitted from the 1973's constitution and the 6th and 7th schedule

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¹ Zubair Abbasi Faisal, *Federalism, Provincial Autonomy, and Conflicts* (Islamabad: Center for Peace and Development Initiatives (CPDI), December 2010), 24.

² Ibid.

³ Muhammad Ashraf Imran, "Federalism and Provincial Autonomy: Political and Economic Dimensions under the Constitution of Pakistan 1973" (Department of Politics and International Relations, Faculty of Social Sciences, International Islamic University, Islamabad, 2016), 47.

were also abolished from the constitution. Furthermore, 11 recommendations were made which deals with the executive authority of the state.⁴

Almost 100 changes were done through the 18th amendment in the constitution of 1973.⁵ The salient impacts of the 18th amendment are the following:

1) Centre-Province Relationship

The 18th amendment gave autonomy to the provinces by adding article 149 and removing the concurrent list of subjects from the constitution. Through this feature, a lot of powers were delegated to the provinces. After amending article 101 the criteria of appointing governors has changed and the president is bounded to appoint a person as the governor who is an enlisted voter of the concerned province. Besides, in the current political scenario, the federal and provincial assemblies collectively possessed the right of making laws about criminal procedure and this has happened after the removal of the concurrent list from the constitution of 1973.

The federal parliament after the 18th amendment needed provincial assemblies' approval for the projects relating to the building of new dams and hydroelectric stations and this is related to article 157. The Council of Common Interest(CCI) was created to solve the issues in case of conflict between the center and provinces. Another change was done by amending article 160 which change the powers of the National Finance Commission (NFC), now the commission after the amendment does not have the right to minimize the provincial powers. After the amendment in the 172 article, the provincial and federal governments have equal rights over natural resources such as gas, oil. If there is a need for an emergency in any province it would be imposed after the concerned province's approval.⁶ Provincial assemblies' sessions increased from 70 to 100 in one year. The subjects who were previously concerned with the provincial assemblies remained with them. The list of federal subjects changed from 67 to 77 while the second part was also increased from 8 to 18.⁷

The CCI got strength with a permanent secretariat after the 18th amendment. The concept of provincial autonomy was enhanced by the idea of formulating new provinces in the future.⁸ The tax ratio increased to improve the federal and provincial revenue.⁹

2) Local Government

The concurrent list was eliminated from the constitution after the 18th amendment and all that powers went to the locals and provincial government. Different long-term programs for the betterment of the lower middle class will be introduced by the local government and provincial government.

The responsibilities of financial management, establishing the administration, check and balance in the administration had also delegated to the local governments. A few ordinances were passed such as the district public safety commission, Zila Muhtsab, Musalahati committee and others, etc to empower the local governments. The authorities were also set up to resolve grievances against the tehsil and district governments.¹⁰

Proper professional guidance and technical assistance will be given to the local institutions for enhancing their skills and status. For better performance, an assessment is needed and it will be done over time. The local government at the tehsil and district levels will get all that guidance and assistance under the laws passed by the provincial assemblies. Immediate actions will be taken place for the assessment and assistance of the district policing planes and district development plans. The institutional infrastructure would be strengthened through in-service training opportunities for the majority of the civil servants working in local government because better results of the provincial policies will get through the capable civil servants.

The provincial managing authorities for the training sessions of the local bodies' servants will work on the lines of the federal system. To maintain the better performance of different fields i.e. education, health, police, engineering and agriculture it is necessary to train their officers and this training is also connected with their promotion too. The position of all that training institutions will be self-ruling and headed by the nominal persons of the concerned field having their board of governors. To manage these institutions in effective manners the boards have authority over financial and administrative powers. A proper share will be given to the locale government to maintain the relationship between local and provincial governments. For enhancing the effectiveness of the local bodies their members will be elected through proper elections which would be conducted through the election commission of Pakistan. At regional headquarters for

⁴ Jami Chandio , *The Crisis of Federalism in Pakistan: Issues and Challenges* (Islamabad: Strengthening Participatory organization, October 2013), 30.

⁵ Fakhr ul Islam , "The 18th Amendment in the 1973 Constitution," *Dialogue* VIII, no. 2 (April 2013), 189.

⁶ Maqsd Hassan et al., *Eighteenth Amendment Revisited* (Islamabad: Islamabad Policy of research institute, 2017), 30.

⁷ Ahsan Rana , "Decentralization of the Education under 18th Amendment," *Economic review* 44, no. 5 (May 15, 2014), 31.

⁸ Shahid Hamid, *Impacts of the 18th Constitutional Amendment on Federation Provinces Relations* (Islamabad: Pakistan Institute of legislative Development and Transparency, July 2010), 19.

⁹ *Ibid.*, 20.

¹⁰ Asma Faiz, *Making Federation Work: Federalism in Pakistan after 18th Amendment* (Karachi: Oxford University Press, 2015), 40.

the inspection of district local government, a board of revenue within limited staff will exist who will inspect 8 to 10 districts each year.¹¹

3) Decentralization of Education

In Pakistan, the provision of the constitution 1973 related to education has faced a lot of changes under the 18th amendment and for the sake of those changes new articles were added to the constitution. To make education a fundamental or basic right of every citizen of Pakistan article 25A was added. The provincial along with federal governments will be responsible to provide educational facilities to the citizens. The children between 5 to 16 years will be the responsibility of the government for arranging education facilities. The provincial and federal governments will do the required legislation to protect these fundamental rights of the citizens and in this regard, we have an example of “The Right of Children to free and compulsory education bill 2013” passed by the Sindh Assembly. The same type of legislation was also done by the Punjab Assembly.¹²

By the 18th amendment, the 4th schedule of the Concurrent List was eliminated from the 1973’s constitution of Pakistan. Before the abolishment of the concurrent list, 47 subjects were dealt with collective responsibility by the provincial and federal government in case of legislation.¹³ Later on, due to the demand of political parties that list was excluded from the constitution and all power related to these subjects has been given to the provinces. At the time of preparation of the constitution in 1973, it was decided that within 10 years this concurrent list will be dismissed by transfer all powers to the provinces but there was no evidence of this statement so after the 18th amendment these powers were transferred.¹⁴ Regarding education, there were the following points mentioned in the concurrent list.

- Islamic education.
- Syllabus, planning, policy, centers of excellence, Curriculum and standards of education.

Before the amendment, there was a wing under the curricula wing of the federal government with the responsibility of making the syllabus for the whole country under the act of 1976. Each province had its bureaus for assisting with federal curricula but after the transformation of the powers to the provinces all these responsibilities were too went to the provinces and the federal curricula wing was dismissed.

There are three more additions in the federal list of part 2 which may be important for the educational infrastructure:

1. Establishment of Regulator Authority under the federal government
2. Creation of establishing and maintaining standards for the higher education commission’s institutions
3. Scientific and technical institutions’ establishment

All mentioned above subjects will be dealt by the federal government but with the consultation of the concerned province and in the case of conflict there is an important institution with the name of the council of common interest which will play a significant role. The higher education commission was a key factor in the transformation of all three mentioned above subjects but provinces demanded the dismissal of the higher education commission but the federal government did not accept this demand and retain the commission to enhance the standard of education and research.

The federal-level considering that after giving total control over the education affairs to the provinces means to lose control over masses as well as physical and fiscal resources. Secondly, there is a lack of infrastructural and institutional administration at the provincial level so the federal opted to keep higher education to itself. In 2011 the dissolution of the education ministry transpired since it was unable to fulfill its responsibilities. Afterward, a new ministry happened with the responsibilities of establishing and maintain educational institutions within the federal areas as per international standard and need of time. The newly established ministry has the following organizations and departments:

- Higher Education Department
- Commission of National Vocational and Technical Training
- Nation Training Bureau
- National Talent Pool
- National Commission of Human Development
- Academy of Educational Planning and Management
- Nation Centre for Rural Development
- Federal Board of Intermediate and Secondary Education
- National Educational Assessment System
- National Internship Program.¹⁵

¹¹ Ibid. , 41.

¹² Farrukh Moriani, *The Eighteenth Amendment in the Constitution of the Islamic Republic of Pakistan, Implications, Opportunities and Challenges* (Islamabad: UNDP, 2011), 41.

¹³ Leslie Seidle and Zafarullah Khan, *Federalism and Eighteenth Amendment: Challenges and Opportunities for Transition Management in Pakistan* (Islamabad: United Nations Development Programme Pakistan.(UNDP), December 2012), 32.

¹⁴ Arif Anwar, “Pakistan’s Provincial Water Disputes: A Way Forward,” *Dawn*, July 28, 2016.

¹⁵ Muhammad Rana Ahsan, “Decentralization of the Education under 18th Amendment,” *Monthly Economic review* (May 15, 2014),56.

4) Reforms of Civil Services

The 18th amendment emerged as significant legislation in the constitutional history of Pakistan for it revive the constitution in its original form and create a balance between the central and provincial management by giving provincial autonomy. The 18th amendment may also call a power-sharing mechanism tool. Arend Lijphart a political scientist designed a constitutional sketch for federalism by saying that:

“Denotes the Participation of representatives of all significant communal groups in political decision making, especially at the executive level”.¹⁶

Moreover, the central-provincial relations of the 18th amendment also affected the civil service of Pakistan too. The 8th and 17th Amendments has caused set back to the nature of the constitution which was overcome by the 18th amendment. The 18th amendment gave more powers to the Provincial Public Service Commission in the regard of making it more powerful and this thing not only ended the provincial reliance over the federation but also make it more responsible. The council of common interest proved more beneficial which not only solve the issues of the center but also gave equal assistance to all provinces regardless of their geographical and economical position.

Pakistan’s establishment including civil bureaucracy and military unfortunately still has colonial behavior. They are prominent power hubs in the country which undermined Pakistan since its inception. The military establishment had installed a few dictatorships in Pakistan which made civilians fed up and they urged a permanent solution and a continued democratic process. In the context of Pakistan, it is said that there is always existed an establishment behind every politically elected government and the government just worked as a puppet and the real engineers are the military establishment. The main reason for this evil is politicians themselves who did not want to root out this issue or this evil role of the establishment. To avoid this situation through the 18th amendment it was tried to end up the corruption in the appointment of civil bureaucracy through a changed merit system and new criteria for the appointments was introduced.¹⁷

5) 18th Amendment and Decentralization of Agriculture Sector

Being an agricultural country Pakistan does not neglect the agricultural reforms and their importance. Transformation of this sector to the province added more burden and responsibilities over the provincial governments and they have to do too much attention in this sector to fulfill its needs for the 70% of the population (Faiz, 2015). Provinces must invest more attention in this sector to get the required benefits as they also have a shortage of technology in the field of agriculture. So they need special financial investment in form of more allowances. The major problem came in the province KPK.

The agricultural Minister Israr Muhammad said:

“We have made elaborate arrangements for the purpose. By fulfilling the longstanding demand of the employees for the service structure, we have promulgated the 4-tier formula for the officials serving in the agriculture extension, research and livestock sub-sector. Again, different sections of the department have been allocated sufficient budgets to train their officials that they could better perform the developed functions.....ministry of food and agriculture was performing 39 different functions in the agricultural along with that handing 12 other departments”.¹⁸

Twelve more functions were added to the provincial ministry viz a viz food, agriculture and livestock, inventory of soil resources, production of special crops, crops’ insurance, formation of projects and evaluation, marketing intelligence, soil survey, standardization of agriculture machinery, socio-economic studies for farming and agricultural policies. To achieve all required goals different departments were created as a department of plant production, Pakistan Agricultural Council and National Agricultural Research Council, Pakistan Central Cotton Committee, Pakistan Oil Seeds Development Board. Although the import and export of the agricultural items and machinery were also taken back from the commerce ministry and was given to the new ministry of agriculture.¹⁹

6) 18th amendment and Constitutional changes

As it is said that the 18th amendment changed the spirit of the constitution and make it as it was perceived in 1973. Before the said amendment, series of amendments have altered the spirit of the constitution from parliamentary to semi-presidential. The decentralization of powers in the form of exclusion of the concurrent list^{20, 21} was the landmark of this

¹⁶ Arend Lijphart, “Constitutional Design For Divided Societies,” *Journal of Democracy* vol.15, no. 2 (April 2004), 56.

¹⁷ Asma Faiz, Making federation work: Federalism in Pakistan after 18th amendment, 45.

¹⁸ *Status of Implementation of the 18th Amendment in KPK in Health, Education, and Agriculture Sector* (Islamabad: Center for peace and Development Initiatives (CPDI), 2014), 9.

¹⁹ Tahir Khan Ali , “Devolution of Agriculture: Impact on KPK,” *Www.Wordpress.Com*, last modified May 10, 2012, <https://tahirkatlang.wordpress.com/2012/05/10/devolution-of-agriculture-impact-on-kp/>.

²⁰ *The Gazette of Pakistan, Extraordinary* (Islamabad: Senate Secretariat, April 20, 2010), 269.

²¹ Colin Cookman, *The 18th Amendment and Pakistan’s Political Transitions* (Center for American Progress, April 2010), <https://www.americanprogress.org/issues/security/news/2010/04/19/7587/the-18th-amendment-and-pakistans-political-transitions/>.

amendment too. Before this amendment, all-important powers rested with the center and provinces had the submissive position. So 18th amendment became an important instrument that gave provinces a more autonomous position. So, it was the start of a new era which is a new social and political contract between the center and provinces.²²

7) 18th amendment and administrative impacts

The administrative hierarchy of Pakistan had been centralized but after the 18th amendment the decentralization occurred and federation units got educational, political, financial empowerment. This amendment has granted powers to three; center, province and local bodies at districts or union council level. So 18th amendment played a key role in changing the administrative mechanism and transferred the powers from center to common masses level in the form of local government.²³

8) 18th Amendment and powers of Parliament

The Eighteenth Amendment has empowered the Parliament and the major changes which were done within the amendment are following:

- The most important change was the termination of Article 58(2)b which gave bigoted powers to the president to dismiss the assembly and to conduct a referendum.
- The power of the upper house (senate) was also increased by article 89 and during its, in-process sessions President could not promulgate any ordinance.
- Article 91 was promulgated which made compulsories for Prime Minister and his cabinet answerable before parliament collectively.²⁴
- After this amendment, the procedure of appointment of the judges changed. Now judges got appointments through article 175-A that authorizes the supreme judicial commission and parliament for recruiting the judges.²⁵
- Intra-party elections were made compulsory through article 17. The position of party leader became strengthen by amendment of article 63-A and disqualified persons are not able to join any political party officially.²⁶

18th Amendment and Its Features

The most important factors or feature of the 18th Amendment are following:

1) Sharing of powers in Federalism

The most important key factor of the 18th amendment is powers sharing form of federalism which creates a most suitable relation between the center and provinces for the betterment of the common people. The relation between the center and its federating units in the form of autonomy to the provinces gave a sense of competition between both governments in the field of legislation, economy and administration which create cooperation too. Provinces made policies and plans for the development of the different factors.²⁷

2) Provincial Autonomy

So many subjects regarding different fields i.e. Education, agriculture, finance were given to the provinces in the provincial autonomy by the 18th amendment. Provinces made their laws and policies to achieve better results in all that fields. To enhance the capacity of the departments more steps should be taken at the federal and provincial levels. Provinces' representation at central institutions may create cooperation and co-ordinance between federal units.²⁸

3) Fiscal Equalization

Between the center and its units, fiscal equalization may be the main characteristic of federalism. This thing started by the 7th NFC award which increased the sense of sharing of finance between center and provinces and at the provincial level they also had the formula to transfer money to the lower level or to the district, tehsil and union council level for achieving best results for their developing policies from a grassroots level.

For equalization of finance at grassroots level there should be some role which will be following:

- i. Requirements of specific area and committee
- ii. The capacity of specific area and committee
- iii. Enactment of different units
- iv. Extent or level of the participants of the community
- v. Some areas were pointed out by the 18th amendment for a keen concentration of the provinces:
- vi. Provincial innovation for legislation
- vii. Provincial administrative co-ordinance

²² Syed Mussawar Bukahri Hussain and Muhammad Faisal, "A Comparative Study of Federalism in Pakistan After 18th Amendment and USA," *Pakistan Journal of Social Sciences* 33, no. 1 (2013), 64.

²³ *Ibid.*, 67.

²⁴ Colin Cookman, *The 18th Amendment and Pakistan's Political Transitions*.

²⁵ *The Gazette of Pakistan, Extraordinary*, 271.

²⁶ Maqsd Hassan et al., *Eighteenth Amendment Revisited*, 33.

²⁷ Jami Chandio, *The Crisis of Federalism in Pakistan: Issues and Challenges*, 32.

²⁸ *Ibid.*, 35.

viii. Provincial planning and programming for maintenance of policy

Provinces will get their fiscal share through different forums i.e. NFC, National Economic Commission (NEC), CCI on an equal basis and the 18th amendment emphasized on commoner's participation in the government-making process.²⁹

4) Consolidation of Democracy

In Parliamentary democracy, all powers of the executive rest with the office of the Prime Minister and his cabinet. The prime minister is considered as the head of the government while the president is called the head of the state with a senatorial position. By 1973's constitution Pakistan was also given the parliamentary democracy which was undermined in 1985 by the dictator Zia-ul-Haq through the 8th amendment. This amendment gave exceptional powers to the president such as to dissolve the assembly and Pakistan experienced almost 5 dismissals due to the enactment of the 8th amendment. The amendment in article 58(2) b through the 8th amendment was a serious hurdle for the consolidation of the democracy. The 18th amendment waives off all effects of the 8th amendment and all powers now rest with the prime minister's office which is considered a milestone in the path of democracy. The constitutional importance of the 18th amendment may be observed from this quote "that 18th amendment would open new ways for the strengthen democracy in the country".³⁰

5) Stable Parliament

Through the 18th amendment president's powers to dissolve the parliament were aborted which made parliament more stable. Now he cannot use the power of article 58(2)b in case of any national issue and he could only call a joint sitting session of the parliament for discussion. The time of approval of the money bill in the senate changed from 7 days to 14 days through article 73. Before this amendment, the assent time of the president for the money bill was 30 days but now it is 10 days only.

- a) According to article 89, President can formulate the ordinance when both houses of the parliament are not in session. Whereas the set constitutional life of the ordinance was 90 days. The duration of the ordinance can be increased but only with consultation with the national assembly.
- b) After the 18th amendment, the power of appointment of prime minister transferred from president to parliament before this the president had the right to nominate a person to whom, he considers to have the majority. This power is transferred by article 91. Article 160 gave the powers to the president to call the first session of the national assembly within 21 days of the general election.³¹
- c) Another power which parliament gets by this amendment is that now the Prime Minister is collectively responsible before both houses of parliament with his cabinet. Before this amendment Prime Minister was not responsible to the senate. In the absence of the governor, the speaker of the national assembly will play its role. Besides the third turn of the being the prime minister was also barred by the said amendment.³²

6) Empowerment the Prime Minister and his cabinet

In a parliamentary form of government, people elect their representatives and from these members, the majority party's head became prime minister at the federal level or chief minister at the provincial level. The Prime minister had the central position in the parliamentary form of the government and he had tantamount powers. Before the 18th amendment with 58(2), b president got a superior position over the prime minister but after this amendment, these powers again went back to the prime minister and now he had the powers to nominate the members of the council of common interest according to the article 156. Although the president according will do the appointments of the services' chiefs and FPSC chief with the advice of the prime minister as per article 242.³³

According to Article 153, it becomes compulsory for a prime minister to become head of the council of common interest and chief ministers also got more powers in the council as compared to the past. In the current political scenario, the provinces are exercising their executive powers and the provincial government is existing of the chief minister and his cabinet.³⁴

7) Autonomous Judiciary

An independent judiciary is very important for the protection of parliamentary government and the constitution. The powers of the judiciary were decided by adding a new Article 175 to the constitution. According to this article, a new institution by the name of the judicial commission was created. The judicial commission will nominate the judges of federal and high courts and shariah court. Another power of this commission is to decide the numbers of a parliamentary committee. Judges of the Supreme Court will be appointed with the consent of 9 judges of the judicial commission. The

²⁹ Ibid., 36.

³⁰ Maqsd Hassan et al., *Eighteenth Amendment Revisited*, 34.

³¹ *The Gazette of Pakistan, Extraordinary*, 272.

³² Maqsd Hassan et al., *Eighteenth Amendment Revisited*, 35.

³³ *The Gazette of Pakistan, Extraordinary*, 273.

³⁴ Maqsd Hassan et al., *Eighteenth Amendment Revisited*, 37.

commission will make its laws by its self. The members of the judicial commission will be appointed by the chief justice of Pakistan by the advice of the Prime Minister.³⁵

8) Protection of the Constitution

The Eighteenth Amendment along with other good factors gave protection to the constitution and it is stated in article 6 of the constitution that if any institution or person tried to suspend the constitution or abrogate it, they will be dealt with by the act of high treason.

9) Economic and Social Development

The economic and social welfare of the citizens was also dealt with in the 18th amendment. The government is held responsible to provide free education to children aged between 5 to 16. With article 27 equal representations were granted to the backward areas of Pakistan in all sectors, especially in government jobs. By amending Article 35 fiscal shares were almost equally divided between the provinces and special funds were sent at a local level, district, and union council level for getting better results in economic and social sectors.³⁶ The 18th amendment added a new article 92 which declared that representation of ministers of state should not exceed 11% of the total members of the parliament.³⁷

10) Relation Between people and Government

The dismissal of the concurrent list shifted powers to the provinces which make provincial governments close to the common people and citizen can more effectively protect their rights. In short, through the 18th amendment, a good working relationship will emerge between government and people.³⁸

II. 18th Amendment and Challenges

The 18th amendment is considered a milestone in the political and constitutional history of Pakistan as it changed the nature of the constitution by giving it new dimensions. In the history of Pakistan, it happened rarely that all political parties unanimously nail down some decision and it was the 18th amendment that centered them on one point. The 18th amendment got approval by the national assembly on 8th April 2010 and by the Senate on 15th April 2010. The president gave assent on it on 19th April 2010 and with the status of an act of parliament, it became part of the constitution.³⁹ 18th amendment re-established the true spirit of the 1973's constitution and changed the government in Pakistan from semi-presidential to parliamentary system. Now so many questions arise regarding the implementation of this amendment i.e. center will allow the provinces to use powers given through the autonomy. To overcome all these doubts a commission for the implementation of the amendment was formed on 4 May 2010 and this commission was assigned the work to transfer amended subjects to concerned authorities. The most important challenges to the implementation of the 18th amendment will be following:

1) Removal of Concurrent list

To give provinces more autonomy concurrent list of subjects was removed from the constitution and from this list out of 47 subjects 40 were given to the provinces.⁴⁰ The main concern that surfaced after the amendment is the implementation and transfer of these powers to the grassroots level which needed more time and expenditures.

2) In-charge of Ministry

Another challenge was to transfer ministries from the center to the provinces, almost 20 ministries and more than 100 authoritative offices were given to the provinces. It was a substantial task for the provinces to assist or to do an assessment of almost 250,000 servants of these ministries. Provincial governments faced many difficulties in getting in charge of these ministries.

3) Bounteous form the Government

The 18th amendment established a true form of parliamentary form of government but in actual this could only be achieved if political forces and political parties would function within the limits defined by the constitution. Free and fair elections are also too much important for a smooth democratic government. Free and fair elections are only attainable through a strong and free election commission. Regarding the caretaker government, it was decided that it will be decided by keeping the opposition and outgoing Prime Minister on board.

4) Centre-Province Relations

As provinces got more autonomy through the center and many ministries were handed over to the provinces. Local government was also created under the provinces and the main concern is to enhance the working of all institutions through effective policies and their implementations. The tussle between center and province over laws or policies is an obvious reality that could only brush aside through a proper system.

³⁵ Ibid. , 36.

³⁶ Aisha Pasha Ghaus , *Fiscal Implications of the 18th Amendment : The Outlook for Provincial Finances* (Washington, DC: World Bank Policy Paper Series on Pakistan, 2011), <https://openknowledge.worldbank.org>

³⁷ *The Gazette of Pakistan, Extraordinary*, 273.

³⁸ Anwar Shah, "The 18th Constitutional Amendment: Glue or Solvent for Nation Building and Citizenship in Pakistan?," *The Lahore journal of economics* (September 16, 2012): 392.

³⁹ Ibid. , 395.

⁴⁰ *The Gazette of Pakistan, Extraordinary*, 274.

5) Economic Relations

The national finance commission was created to protect the country from the financial crisis, solve financial issues and distribute fiscal asserts between provinces and the center. Provinces can enjoy autonomy only when they had financial autonomy for which they are provided a share in the NFC award. It was decided that provinces will get a 50% share of their natural resources from the federal government. To attain all these a lot of work required.

6) Honesty of Officials

For the proper implementation of the 18th amendment honesty of the government official is needed. Devoid their sincerity full result of the amendment would not be attained. But unfortunately, throughout the political history of Pakistan, there is always a lack of sincerity in officials.

7) Tasks of Federal Government

Although the 18th amendment gave more provincial autonomy and powers to the provincial governments but instead of all that there are a lot of tasks and duties which can be done only by the federal government for example securing common financial union, equal tax system, protection of basic rights of the citizens, natural deserts, etc.⁴¹ so it is a key challenge to fulfill all these duties a dignified manner.

8) To Establish New Organizational Structure

The federal government had another important task to establish a new structure according to the new system but unfortunately, the government failed to form a new system and old structure institutions continued, for example, the planning commission, higher education commission and national center of human development.⁴²

9) Lack of Resources

The federal government was failing in creating a common economic union and shares in the form of NFC. The transfer of subjects to the provinces needs a new structure at the provincial level and also a heavy budget for the new structure. The 18th amendment divided the state into 3 tiers federal government, the provincial government and the local government, to establish all these three tiers needs a lot of fiscal arrangements.

10) Risks for the Provinces

With new powers, the provincial governments get new responsibilities and new challenges too in fiscal and administrative form. Although different steps were designed for the assistance of the new setup.

11) Resources and their Distribution

Pakistan has several challenges on financial and administrative fronts. The provinces faced so many risks in achieving better results despite⁴³ blessed with different natural resources. These resources are found in different places of the different provinces but used almost within the whole country. With the current scenario of global politics, natural resources got much importance and most wars are caused by these resources, so it also affected the state and created conflict between the provinces.

In Pakistan, Baluchistan and Sindh are the provinces that had prejudice over the ownership of natural resources. These resources described the level of their production. 71% of the total natural gas produced by the province Baluchistan while the other provinces like Sindh, Punjab and KPK added respectively 22%, 5% and 2%. Before the 18th amendment, the federal government had the whole control over these resources and the center got 88.5% while 11.5% share was given to the provinces. Now the provinces hold their control over the natural rescues and they get a 50% share of their resources. But this is not still implemented and this may cause a bone of contention between the center and provinces.⁴⁴

12) Water Conflict

Another challenge for the implementation of the 18th amendment is the distribution of water between the provinces, especially between Sindh and Punjab. This issue went back to the colonial period when the British ruled India. From 1859 when the Indus river was given to Punjab for irrigation the issue emerged and still existed. At that time a treaty was signed by the Punjab and Sindh authorities to solve this issue. But this issue became more intense because most of the Head Works were given to India. In 1960 Pakistan and India signed a treaty "Indus Basin Treaty"⁴⁵ and according to this 3 rivers were given to India while 3 to Pakistan and then a significant accord was signed between the provinces of Pakistan on 21 March 1991^{46, 47} But instead of all this the conflict between Punjab and Sindh still exists, by 1991 to till date 6 commissions were created to solve the problem but unfortunately good results were not attained and the 18th amendment did not take many steps to solve this issue.⁴⁸

⁴¹ Ibid. , 276.

⁴² Anwar Shah, "The 18th Constitutional Amendment: Glue or Solvent for Nation Building and Citizenship in Pakistan?," 396.

⁴³ Ibid. , 397.

⁴⁴ Jami Chandio , *The Crisis of Federalism in Pakistan: Issues and Challenges*,33.

⁴⁵ Matthias Paukert, "Bridging Troubled Waters: Water Sharing and the Challenge of Hydro-Solidarity" (Dissertation submitted to the Faculty of Economics and Social Sciences of the University of Heidelberg, 2015),47. [tps://archiv.ub.uni-heidelberg.de/volltextserver/20125/1/Diss%20full_20102015_CD-copy.pdf](https://archiv.ub.uni-heidelberg.de/volltextserver/20125/1/Diss%20full_20102015_CD-copy.pdf).

⁴⁶ Ibid. ,49.

⁴⁷ Arif Anwar, "Pakistan's Provincial Water Disputes: A Way Forward," *Dawn*, July 28, 2016.

⁴⁸ Jami Chandio , *The Crisis of Federalism in Pakistan: Issues and Challenges*, 34.

13) National Integration

National integration is one of the issues faced during the implementation of the 18th amendment for the protection of democracy and the federal system. There are so ethnical and racial conflicts that have existed in Pakistan since its formation. National integration will be attained when all these conflicts are ignored and the fate of democracy in Pakistan also depended on it. Educational and economic progress is the basis of national integration.⁴⁹

Suggestion for Implementation of 18th Amendment

For the implementation of the policies and laws of the government, the political forces must play a decent and responsible role. They should prefer the state's interest over vested interest for the flourishing of a democratic environment. If political parties take part in undemocratic activities it will create serious peril to the future of democracy. After the implementation of the 18th amendment, the role of local bodies and provincial governments increased.

For national prestige a firm and balanced foreign policy is very important and in this regard, parliament should have to take steps with the concerned ministry. These policies should be based upon the geography, strategy and needs of the country. These policies will also present the position and intention of Pakistan in international peace. New economic policies are needed for the welfare of society. To control inflation different welfare programs are needed at the provincial and local levels (Maqsud Hassan and Nuri, 2017).

In the modern scenario, media is considered a vital pillar of the state due to its powerful role in society. It is important that media must play its role effectively to educate the people on national issues.⁵⁰

To attain a stable government, it is essential to create a sense of brotherhood and love between the units of the federation because their inner conflicts or tussles may work as death for the stability of the state. Peoples are divided into ethnic and religious cliques and this is harmful and alarming for the federal system. To solve out all mentioned above issues and for the better implementation of the 18th amendment following steps should be put into consideration.

- There should be a sustainable and cooperative relationship between the center and its units.
- Provincial autonomy was completely handed over to the provinces.
- There should be a balanced and healthy relationship between the Prime minister and president. Both should be bound to act according to the constitution
- Proper implementation of National Finance Award for the uplifting of social and economic sections in provinces.
- Parliament should be free in the policymaking and in playing its role in shortcomings of other pillars of the states.
- There should be strict roles and measures for the sack of strong democracy in parliament.
- To protect justice there should be an independent and strong judiciary under the Judicial Commission.
- There should be internal and external security and integrity of the state.
- Policies made by the parliament should be according to Pakistan's national interest and also according to the UN human rights charter.
- Another most important thing is that the relationship between military and civilian government. Both should have to play their responsibilities under the law and constitution.

If the true spirit of the 18th amendment will be enforced it will promote good governance in the country.⁵¹

Recommendation for the Federation of Pakistan

In Pakistan, a strong Federation needs a smooth and effective work relationship between the federal government and its units which is prescribed in the constitution. There is some recommendation which would be helpful the making or stabling the federal government in Pakistan.

- 18th amendment should be implemented in its true letter and spirit.
- There should be an institution like the constitutional court at the federal level which will be a safeguard for the constitution and central-province working mechanism.
- Institutional imbalances should be removed and all institutions should be bound to play their role according to the law.
- There should be a proper check and balance over the defense budget and it must be endorsed through debate in the national assembly.
- Just like MNA the elections of the Senate should be direct.
- There should be some inter-provinces social activities which will promote a sense of brotherhood between them.
- The conflict over the distribution of water between provinces should be resolved.⁵²

⁴⁹ Gulam Chaudhry Mawla, *Pakistan, Transition from Military to Civilian Rule* (London: Scorpion, 1988), 67.

⁵⁰ Maqsud Hassan et al., *Eighteenth Amendment Revisited.*, 36.

⁵¹ Ibid. , 37.

⁵² Zubair Abbasi Faisal, *Federalism, Provincial Autonomy and Conflict* (Islamabad: Centre for Peace and Development Initiative, December 2010).

Conclusion:

The impacts of the 18 amendment are of the essence and effective since the provinces are relatively exercising their power share in decision making. The political and constitutional changes are in process and will occur more obvious with time. It is a test case for stakeholders and its implementation is a formating phase for making Pakistan an absolute democracy. Good governance could be assured through its implementation because provinces know their impediments as well as solutions and now they are in charge of managing their provinces. The 18th amendment has envisaged sheer democracy which would be possible through its prompt and necessary application.