

How 18th Amendment created gap in governance. Discuss its merits and demerits.

1. Introduction:

18th amendment was a landmark amendment to the 1973 constitution of Pakistan. It empowered provinces by giving them autonomy in key sectors management. However, it was criticised due to some drawbacks in it including: promotion of dynastic rule, loss of central authority over provinces, lack of implementation to its provisions etc.

Nonetheless, its merits are enormous ranging from promotion of good governance, democratic values to empowering opposition parties etc. Therefore, 18th amendment is well received by the majority of public opinion together with criticism from various quarters of the masses in the country.

2. A Brief History of Constitutional Development:

The constitutional history of Pakistan is filled with joint rule of civil and military rule. First constitution was presented in 1956 which lasted for two years followed by martial law

in the country. Secondly, the constitution was suspended by Zia's government in 1977 followed by the decades of political crisis in Pakistan. Thirdly, in 1999 another military coup occurred without impunity and was covered under judicial protection. This state of affairs led to the landmark amendment generally known as 18th amendment to the constitution of Pakistan.

3. An Overview of 18th Amendment

18th Amendment was passed by PPP government in April, 2010. It was a landmark amendment in the constitutional history of Pakistan. Its provisions were well received by the majority of public opinion. Although, it provided an ideal of power-devolution, it is criticized that it has created a governance gap by giving more authority to provinces without assuring any checks and accountability. While its advocates state that it has strengthened federalism and ended dictatorial rule, it has not ensured

implementations of its provisions. Therefore, it is being criticized in certain matters.

4. Key Provisions of 18th Amendment:

The amendment contains some very significant features which are discussed below:

- 4.1 It strengthened the parliamentary system of Pakistan
- 4.2 Enhanced the role of Council of Common Interest
- 4.3 Ensured provincial autonomy
- 4.5 Provided judicial independence
- 4.6 Provided Fundamental Rights

5. Merits of 18th Amendment:

The amendment's provisions were well received by the public. Following are the key merits of 18th amendment:

5.1 Preserved Democratic Values:

The 18th amendment preserved democratic values in Pakistan

by providing article 10-A. According to article 10-A, all Pakistani citizens have right to free-travel. This indicates that government of the people by the people for the people spirit is alive. Moreover, under article 25-A, all Pakistanis would have access to free education which shows democratical spirit was kept protected by the amendment.

5.2 Promoted Good Governance:

The amendment promoted quality of governance. This can be ascertained from article 19-A of the 18th amendment which says, every Pakistani has the right to access to information. Moreover, the amendment under article 92 and 130- put restrictions on the size of federal and provincial cabinet. As a result of it, not only governance, but also transparency improved.

5.3 Empowered Opposition Government:

One of the major merit of the amendment is its provision of article 175-A. As per this

amendment, institutionalization of judicial appointment was made possible. It established parliamentary committee consisting of four members from incumbent government and four members from opposition government. This demonstrates that the amendment empowered opposition party which is crucial for any democratic state.

54 Promoted Fiscal Discipline:

The amendment enhanced fiscal discipline by restricting the size of federal cabinet. Reduction in the size of cabinet promoted fiscal austerity which is need of the hour if one talks about economic conditions in Pakistan. Hence, under article 92 and 130, the amendment paved the way for fiscal discipline by reducing ministerial expenditures on provincial as well as on federal level.

55 Prevented Extra-Constitutional Adventures:

Among all the provisions of the amendment

it was an extraordinary milestone to prevent extra constitutional adventures by restoring article 6 in the constitution. Under it, suspension of the constitution declared high treason and consequent death penalty. Furthermore, it bar the courts to give judicial cover to martial law. Hence, it paved the way for smooth running of democratic or civilian governments in the country.

6. Demerits of 18th Amendment - A Critique:

Although, 18th amendment was a historic development which paved the way for more flexibility in governance, yet it has been subject to criticism from various quarters. Some of the drawbacks of 18th amendment are given below:

6.1 Promoted Dynastic Rule in Pakistan:

The amendment is subjected to massive criticism due to some articles. For example, it removed conditions of holding intra-party elections by withdrawing 17th amendments to the constitution. This resulted

in hierarchical politics in Pakistan which hampered novel leadership. Therefore, it has been said that 18th amendment favoured a few political parties ruling the country since 1990s.

6.2 Loss of Federal Authority over provinces:

One of the demerits of the amendment is that it resulted in loss of authority of Federal government over provinces. By amending article 142, concurrent list was removed; resultanty central government's powers were restricted. Apart from it, under article 167, provinces were empowered to raise international loans. Hence, it weakened the federal government's role.

6.3 Lack of Implementation Mechanism:

Absence of proper plan for the implementation of the provisions by 18th amendment, is one of the drawbacks of the amendment. Despite utopian in nature the amendment did not craft implementation, for instance, in spite of article 25A

millions of children are out of school in the country. Similarly, article 153 which states the Council of Common Interests - body will meet within 90 days, however, it is not implemented. Thus, 18th amendment does not provide any implementation mechanism.

6.4 Mismanagement in Key Sectors at Provincial Level:

Last but not the least, 18th amendment handed over subjects to the provinces which could be better managed by federal government. For example, environment, food, medicine etc. This can be seen from mismanagement on the behalf of disaster management authority which was later handed over back to the center. Moreover, in Drug Regulatory authority, same kind of mismanagement was observed in 2011 which also returned to federal government.

7. Conclusion:

18th amendment created gap in governance by its hasty provisions. It devolved powers to the provinces which could be better handled by the center. However, its merits are encouraging to democracy in Pakistan.