

Discuss the Federal Structure of 1973 constitution of Pakistan after 18th Amendment. Why criticism on 18th Amendment started recently?

## INTRODUCTION

The Federal structure of Pakistan enshrined in the 1973 constitution became even stronger after a number of subjects <sup>that</sup> were taken from the Provinces were returned to them under the 18th Amendment. Under Federalism, the federating units are more autonomous in their decision-making and revenue generation. They are provided more fiscal and administrative powers and are loosely tied to the centre. Before the 18th Amendment, the country's centre held all of the administrative and fiscal power. The Centre would control everything. However, like <sup>but</sup> all great things' opponents and proponents discuss their pros and cons. The nays allege that the 18th Amendment has created a great fiscal imbalance between the centre and federating units. Moreover, proper devolution never took as the federating units never set up proper functioning local governments and in a way consolidated all the power at their units centre. A culture of free-riding is also seen in provincial budgeting as the collection at their <sup>with</sup> ~~dismal~~ and along <sup>with</sup> ~~others~~; learned corridors have expressed

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their disappointment over the current state of the 18th Amendment.

## PAKISTAN AND FEDERALISM

### Theory of Pakistan according to Quaid

The father of the Nation, Quaid-e-Azam, Muhammad Ali Jinnah envisaged that the state of Pakistan would embody a federalist structure. He quoted the following <sup>while</sup> in an interview in the US.

"The Theory of Pakistan guarantees that the federal units of national government would have all the autonomy... but certain powers will remain vested in the central government such as the monetary system, national defence and federal responsibilities."

(Quaid-e-Azam (1945))

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## Federal Structure before the 13<sup>th</sup> Amendment

The 13<sup>th</sup> Amendment strengthened the federal essence of the 1973 constitution but it wasn't all jolly rickety before that; In the early days, the One Unit initiative/scheme merged all the provinces in the West into and East into one. After the fall of Shaka, it was thought that provincial autonomy should be greater and under the '73' constitution federating units were granted a greater say in their domestic affairs. However, several amendments were done to weaken the Federal structure of the constitution. The relations between the Centre and provinces was always one in the Centre's favour.

## FEDERAL STRUCTURE AFTER 13<sup>th</sup> AMENDMENT

The Federation and Federating Units traded various subjects, by which the concurrent list was abolished and 44 subjects remained under Federal purview. The Federalist structure can be gauged from 2 positions :-

## Federal Position

## Federating Units Position

→ Federal jurisdictions is restricted to those listed in the (F.L.L.) Federal Legislative List under Article 142.

→ Provincial autonomy has increased over matters not enlisted in the Federal Legislative List.

→ Both Federating Units and Centre can legislate on common subjects such as Criminal Law, Procedure, Evidence.

→ Provincial Governments has shown increased autonomy with regards to these common subjects each adopting its own iteration.

→ Federal receipts / taxes are now limited and sales tax and services taxes are provincial domain.

→ Provinces to now collect and levy taxes on sales, services, agricultural produce, land and so on.

→ Federal share from divisible Ps 42.5% of total revenues.

→ Provincial share from the consolidated revenue pool is 57.5%

→ Currently, the Federal Government is running at deficit for quite some time now.

→ Fiscal Year 2024-25, the Provinces (Punjab) and (Sindh) posted fiscal surpluses in quite a long time.

Attempt this part in detail by giving subheadings; not points. Also add references against these arguments

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# CRITICISM ON 18<sup>TH</sup> AMO. REASONS AND ANALYSIS

## Fiscal Imbalance between Centre and Federating Units

The current scenario at the fiscal health, raises alarm bells which are used by those corridors who use it for the criticism of the 18th Amendment

### Budget Comparison (in Rs)

Federal	26.3T (-8.4T) deficit	KPK	1.857T Surplus ← (+100Bn)
Punjab	5.45BT (+630Bn) Surplus	Sindh	3.128T No surplus/deficit
Balochistan	0.955T (+25Bn) Surplus		

(Budget 2024-25)

The Federal government presented a budget with a deficit of 8.4 Trillion rupees that was fulfilled by borrowing from local/foreign bodies/banks. This deficit has led to the current debt cycle. Many have accused the 7th NFC award and Article 160 as the primary culprit of this deficit. This deficit has

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extreme cuts at the Centre while the provinces enjoy at the meredemise of the Centre.

## NFC Award and Culture of Free-Riding

The 7<sup>th</sup> NFC (National Finance Commission) Award guarantees every federating units right to a share in the pie. However, as many critics argue rather than increasing their own tax receipts they have adopted a practice of free-riding. They have equipped themselves with large and bulky bureaucracies.

“ Rather than competing with each other over who is raising the most revenues, provinces are content in the current scenario where most of their revenue is drawn from the Federal pool.”

(Adil Nafis - Dawn)

Punjab having the most population and resultingly a big portion of the bureaucracy still has less allocated for pays as compared to Sindh and KPK. More over, more than half of all the units' budgets are composed of Federal transfers:

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## Provincial Tax Collection is dismal

Province	Tax Collected	Federal Transfer
Punjab	Rs. 1744 B	Rs. 3702 B
Sindh	Rs. 1151 B	Rs. 1977 B
Balochistan	Rs. 229 B	Rs. 726 B
KPK	Rs. 517 B	Rs. 1340 B

(Budget 2024-25)

Another reason for the criticism from many corners, is despite the devolution of many tax heads to the federating units. The collection of tax receipts on their part has been dismal. The Federating units have failed to build <sup>the</sup> capacity of tax collection staff. Moreover, they have failed to expand the tax from sales and services to land and property taxes.

## No sight of devolution of Power to local bodies

Ever since the passing of the 13<sup>th</sup> Amendment, the provinces and the federation were bound under Article 140A to set up functioning local governments.

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However that has not happened till date. The provinces have done the opposite by consolidating power at their units centres. Moreover, they have either delayed or done everything in their power to either amend the law to render the local governments toothless. By doing so, they have created the same situation that was between them and the center. Moreover, by not establishing functioning the benefits of the 18th Amendment cannot be fully reaped.

## Rise of Inter provincial Strife and Disputes

The growing share of powers has made some past disputes rise between the provinces. Punjab is often accused by the lower riparian province of Sindh of 'stealing' or taking more than its 'due share' from the water system. Moreover, these disputes continue in the domain of fiscal distribution where the rest of the provinces often blame Punjab for receiving more and raising such concerns goes on. What was supposed to bring parity between the provinces has now made them, as many critics note, turn against one another. These overtures risk the inter-provincial harmony envisioned in the 18th Amendment.

Use  
marker for  
references

# CONCLUSION

The 18th Amendment is a piece of legislation that returns Pakistan to the path envisioned by crafters of the '73 constitution and the Father of the Nation himself. However, if these hurdles are not addressed the true rewards and fruit can never be reaped and its full potential can never be achieved/unlocked.

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