

Discuss Federal structure of 1973 constitution after 18 amendment / why criticism
~~Started on 18 amendment~~

Recently?

Introduction

Then 1973 constitution was adopted on 12 April 1973. But implemented on 14 August 1973. Although, apparently it was a parliamentary nature but it had some sections which contradicted with parliamentary nature. Before 2010 it had been suspended for 3 times. To make it strong and for prevailing democratic system on 19 April 2010 government did 18 amendment.

**A QUESTION
IS NOT
SUPPOSED
TO BE ON 17
PAGES!!!!!!
REDUCE THE
ANSWER TO
8 9 SIDES
AND
RESUBMIT
THE
ANSWER!!!!!!**

~~Who?~~ Hamid said in his book

constitutional and political history of Pakistan

~~"It was rare consensus"~~

document adopted by all political parties on 12 April 1973:

Hamid Khan

18 Constitutional Amendment

President Asif Ali Zardari signed this although it transferred major powers from president to parliament and prime minister

“18th constitutional amendment was in fact a true manifest of promises & exercises of true people's democracy in Pakistan” Bilal Bhutto

(Ex Foreign Minister)

Main constituents made in 18th Amendment

Name changed of NWFP
North western Frontier

name was changed into
Khyber Pakhtunkhwa which
gave national identity
to province

→ It was done under

Article 1

High treason Punishment: Before
this constitution high treason
punishment was only given
who abrogated constitution

18 amendment: High
treason punishment will be
imposed on those who even
Suspend constitution

→ It was done under

Article 6

Bar on courts: Courts were
not allowed to validate
martial law or any
constitutional adventure
Before we had case in

history where justice Munir validated Martial Law.

So 18 amendment put bar on court under

Article 6

Fundamental Rights

A comprehensive chapter on fundamental rights included ensures equality, freedom of speech, religion and safe guard against arbitrary harassment

Hamid Khan

18 Amendment In it

more rights were given

Article 10-A (It gives right of fair trial)

Article 19-A It ensures

freedom

Article 25A It ensures right of education. Children between 5-26 years must be given

education. It will responsibility of state

Duration of terms of Prime minister of Pakistan

Musharraf made law that no man can be prime minister of Pakistan for more than two terms.

18 Ammendment: This order abolished under article

91 → There is no restriction for terms for Prime minister

Removed restriction on

Cabinet size : Before 2010

only 11% of Parliament was able to become part of cabinet. For example

17 members 446 only 47 was permitted to become ministers

18 Ammendment: It remove

restriction. There is no limit of cabinet

→ It was done under Article 92

Appointment of Governor

This power was given to President.

→ But in 18th Amendment this ~~given~~ power transferred to prime minister under Article 101

Power of President to

dissolve Assembly: In 18th amendment this power was reduced was abolishing

Article 58(2)(b)

→ This change strengthened Prime minister and parliament

Power of Governor He was able to resolve provincial

assembly but power was taken under article 112.

Local Governments: These made mandatory for provinces under Article 140.

Abolition of concurrent list

A federal established in 18th amendment all powers were given to provinces except criminal law, criminal justice and evidence.

→ It was done under Article 142.

Empower council of common

Interest (CCI): It was empowered under article 153.

→ Prime minister is head

→ 4 chief ministers are members of it

→ Economic related and many other issues will

discussed.

→ After 120 days meeting
will be held quarterly. ✓

Establish Islamabad High

Court: citizens of captived
went for justice to other
high courts so in 18
amendment Islamabad

→ High was established under
article 175A.

Institutionalize process of appointment of Supreme

Court judges.

Previously
they were appointed by
president but after 18th
Constitutional amendment

this power was given to
Parliamentary committee
and Judicial comission
of Pakistan under

Article 175

Institutionalize appointment of chief election commissioner:

This was done under Article 213

In which Parliamentary committee will make decision

→ members from government and 6 from opposition were included.

Provincial Autonomy:

In 18th amendment different steps were taken

→ Provinces were made allowed to take foreign loans

Article 167(4)

→ Equal share in gas and mineral reservoirs was given to state and provinces under Article 172(3)

→ In NFC award it was written that no reduction will be made in provinces share

in future → Article 160(3)

→ 57% share to provinces

→ 42% → Federal government

Institutionalize process of appointment of caretaker government

According to 18 Amendment
this will be done by
both government and
opposition under Article 224

Resolution for emergency in Provincial Assembly

Before 2010, government had free hand for government rule but

→ In 18 amendment it made compulsory that resolution to be passed by assembly before under Article 232

Defense Appointments

Appointments of chiefs of navy,

airforce, Army will be made by Prime minister of Islamic Republic of Pakistan under article 243

Empower senate

Members increased from 100 to 104 (four for minorities) one from each province, working days increased from 90 to 110.

Articles 62, 63

These deal with qualifications and disqualifications. Nissharraf made time period for disqualification was life time.

In 18 amendment it reduced to 5 years.

63(a)

Disqualification references were only sent by Parliamentary head of party. But now only head will be able to send references.

→ Schedule six and seventh were abolished because six dealt that no amendment without sign of president

→ It had 35 laws
Seventh schedule was that amendment was to be made in constitution before any amendment made.

It had 8 laws

Minorities A right to minorities to practice their religion was given

Criticism: It has started recently because it has some demerits

Fiscal constraints on Federal Government: Under article 160-3 due to heavy share to provinces put burden on government

Dr Hafiz Pasha "Federal"

government has only 35% for debt servicing, education and defense and national projects."

(PIDE policy review 2021)

Weak Economic management

Sales tax collection was given to provinces in 18 amendment

Provinces collect GST on services and also discretion

There is no uniform policy.

FBR has become weak. Low revenue collection happens

In Fy 2024-25 target was 13 bn \$ but FBR could only collect 11.7 bn \$

“Fragmentation of tax authority undermines revenue mobilization and economic planning”

(PIDE)

No implementation in health and educational fields:

According to 25-A every citizen will be given education of age 5-16 years **criticism** But today 26 million children are out of school.

→ Only 0.8% is ~~8%~~ of GDP is spending on Education and 0.9% of GDP on Health is spending.

Economic Survey 24-25

No Freedom of speech

Article 19-A ensures freedom of expression but today government is busy in making PICA ordinance

→ Journalists are being threatened.

→ Opposition leaders and workers are kept in jail

No Accountability at provincial

level There is no check

and balance for fund use

Example Recent in upper khyber

corruption case in which 40 billion was being misused for 5 years

"Decentralization without accountability leads to corruption"

Global space village

Less Empowered CCI In recent

April when government decided to

build six canals in Indus river

in cholistan to fulfill green Pakistan

Initiative. But Sindh government

opposed it. Protests were done

But no meeting was held
in this regard.

Lack of coordination between government and provinces

In 2020 when government decided

to build Island (Pakistan Island

and development authority) in

Sindh and Balochistan, but did not fulfill because deadlock was created. So no harmonization exists between Federal and provinces.

Administrative burden of provinces

Provinces are not focused to making existing bureaucracy most effective but more busy to make new institutions and put burden on economy.

Punjab has recently built PFRA Force and give authorities which were easily included in duties of already existing bodies like price control and enforcement can be done by Assistant commissioner as well.

→ ~~7bn~~ 17 billions Rupees were spent on this force only put burden on economy.

Financial Disparities

It exists between provinces

because Balochistan and Khyber Pakhtunkhwa are facing shortage of resources

(P.P.D) **§ 174** is given to Punjab from National Finance Commission Award.

No system of local Governance

According to article 140 local governance system was made mandatory for provinces but now no such system exists

→ only power was devolved to provinces.

Conclusion: In a nutshell, 18th constitutional amendment restores parliamentary or democratic system. But a lack of proper implementation it has become only a piece of paper. So we need strict policies to make it enforceable. Because "Law is a moral function of society"

Alvin Robert Cornelius