

Provincial Autonomy in Pakistan: With Respect to 18th Constitutional Amendment

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ABSTRACT

On 14 August 1947, under the charismatic leadership of Quaid-e-Azam Muhammad Ali Jinnah, the struggle for the homeland of Pakistan succeeded in forming a sovereign state. All of Quaid-e-Azam's political endeavors for sub-continental Muslims are real testament to the realization of an autonomous and sovereign nation. The voyage of autonomy began with the War of Independence in 1857 and eventually ended with the emergence of Pakistan as a sovereign, self-governing and autonomous state. From infantile, Pakistan began life in very difficult conditions that required tremendous struggle to exist in unity. Similarly, the neglected goals of nation-building and national integration, as well as a autonomous nation followed by Pakistan forced by changing circumstances, proved to be a very difficult process. The early deaths of Quaid-e-Azam and Liaquat Ali Khan pose political, administrative, and financial challenges for Pakistan. Political, administrative, and financial instabilities and crises aggravated the process of national integration and created a slew of challenges that eventually pushed the country into identity, autonomous and sovereignty crises. Sub nationalist tendencies, claims of ethnic groups backed by foreign powers, socioeconomic disparities, and various forms of provincial autonomy kept governments distracted from their core focus on internal issues through deliberate consultative and negotiated settlements within the limits of the constitution. The pursuit of harmony within the nation is called national integration. National security and national integration are both intertwined and interrelated concepts. National unity is without national security the ship keeps on rocking and without national security the objectives of national unity cannot be achieved. Language, race, color, caste, creed, even beyond religion, bringing all the elements of the state under the sentiment of service to the state is actual goal of national integration. National integration strengthens all the elements of the society and binds them together, surpassing all kinds of biases and all kinds of negative feelings, as a result of which the nation-state comes into being, which is free from all kinds of prejudices and discriminations. By transcending the distinctions, service under the sentiments of the people emerges in the form of a welfare state. Under national integration, every individual of the state works day and night for the development and welfare of the state without discrimination or exploitative behavior and plays his role in national development. A clear sense of national identity and national pride is not possible without equal development and provision of equal rights to all citizens of the state without discrimination. The leaders of the countries that gained independence from the colonial system have been facing continuous and constant resistance in achieving national integration due to various types of linguistic, creed, ethnic group, religious differences. In general, developing countries of the third world, especially Pakistan, have been facing problems in achieving national integration. How these problems can be solved? What are the causes of these problems? How other countries of the world have faced these problems and how they have solved these problems are all discussed in this study. Also, the resources and demands that different federating units within a federation have been making in different periods have been discussed in detail. This study has also tried to show that after the 18th Constitutional Amendment, autonomy has been given to a substantial extent and the efforts of autonomy that were started since 1857 have entered their final stages, but despite all this. Why is there a lack of national unity and why do, we continue to face, trust deficit and separatist situations like East Pakistan?

KEYWORDS

Provincial Autonomy, National Integration, 18th Constitutional Amendment.

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INTRODUCTION.

Autonomy is described as the authority to govern the internal matters freely and independently. In federations, powers are constitutionally divided between the federal and provincial governments to preserve regional autonomy (Kundi M. A., 2002). Since its inception, Pakistan has been a federal state. According to the original plan of 1940 resolution, Pakistan was to be a confederation of autonomous states. Except form few departments, all powers were to be delegated to autonomous units (Lillich H. H., 1980). This is an excerpt from Pakistan's resolution on the subject:

“No constitutional plan would be workable or acceptable to the Muslims unless geographical contiguous units are demarcated into regions which should be so constituted with such territorial readjustments as may be necessary.

That the areas in which the Muslims are numerically in majority as in the North-Western and Eastern zones of India should be grouped to constitute independent states in which the constituent units shall be autonomous and sovereign” (Publishing, 1983).

This is a straightforward explanation of Provincial Autonomy. The provinces' powers illustrate the authority assigned to each province. Any country's constitution is regarded as sacred document as it is a collective agreement between citizens and state. Since it empowers citizens and institutions and divides authority and decision-making powers among the various governmental bodies. Pakistani federation took nine years to draft its first constitution. However no significant provincial autonomy was given to provinces in it. Further, the refusal of proposals for provincial autonomy in the constitutions of 1956 and 1962 worsened the situation (Rieck, 2016). Consequently, the state of Pakistan was disintegrated just 24 years after its inception.



Pakistan's various issues have been intact due to inability to develop a leadership structure capable of getting public support and fostering feelings of national cohesiveness. Quaid-e- Azam Mohammad Ali Jinnah died just after thirteen months while Liaquat Ali Khan was assassinated two years later. In addition, the founding party, Muslim League also began to lose popularity. Provincial autonomy demands also started to appear from the various parts of the country. However, no measures were taken to address these demands with adequate measures. Due to which, gradually provincial conflicts started to pose a threat to the national integration. Under the Proposal of Jugto (United) Front of Six Point Formula of Awami League (East Pakistan) only foreign affairs and defense was to be handed over to Central government. The Constitution of 1956 was framed on the basis of the Government of India Act, 1935.

The 1956 constitution established unicameral legislature, requiring a unitary and centralized organization. The second constituent assembly rejected this arrangement and advocated for a bicameral parliament with two chambers - upper and lower house. The West Pakistani provinces were united into a single unit, and representation was supposed to be based on equal basis. Federal, provincial and concurrent were the three lists of subjects under 1956 constitution. This division of items showed in table 1.

Table 1. Division of items in the constitution of 1956

Federal List	Concurrent List	Provincial List
30	19	94

Source: https://www.sav.sk/journals/uploads/052012444_Kundi.pdf

The emergency provision of the 1956 constitution jeopardized relations between the centre and federating units largely. The 1956 constitution could not bring about significant change in the issues dividing East and West Pakistan, and it barely lasted for two and a half years. The political climate became much tenser. On June 8th, 1962, the new constitution was approved. which included the following division of items as shown below in table 2.

Table 2. Division of items in the constitution of 1962

Article	Parts	Schedule
250	12	03

Source: <https://studylib.net/doc/5275827/constitution-of-pakistan-of-1962---ibt-lumhs>

The 1962 constitution was highly centralized. Like its predecessor, this constitution also established a unicameral legislature. It only had one federal list, leaving all other concerns to the provinces. The primary list comprised of 49 items as compared to 30 items mentioned in 1956 constitution. Federal government could also pass laws on provincial concerns if the provincial government delegated that authority to the federal government, as well as on any subject not covered by the third schedule. One-man show was the title of the constitution of 1962. As a result, the smaller provinces have significant concerns over the issue of provincial autonomy. Punjab was the only one who continued to oppose demands for province autonomy (Abbasi, 2010).

The disaster in East Pakistan, now known as Bangladesh, sent a message of doom throughout Pakistan. Yahya Khan resigned and urged Mr. Zulfikar Ali Bhutto to establish a government because in West Pakistan Mr. Zulfikar Ali Bhutto was the leader of leading party Pakistan Peoples Party (PPP). Based on parliamentary democracy all political parties at that time agreed for the formulation of new constitution and Zulfikar Ali Bhutto was assigned the responsibilities for the creation of a new constitution for Pakistan. Just only, few parties called for a looser federation with greater provincial autonomy.

On April 17th, 1972, for the draft of the constitution Bhutto appointed a constitutional committee, consisting of twenty-five members of the national assembly. After the extensive debate in the national assembly, a new constitution was drafted and enforced on August 14th, 1973. The 1973 constitution promised devolution of powers to smaller provinces. This constitution was composed of following division of items as shown in table 3:

Table 3. Division of items in the constitution of 1973

Article	Parts	Schedule
280	12	06

Source: <http://www.commonlii.org/pk/legis/const/1973/>

Bicameral legislature was established under the constitution of 1973 with two houses, named as senate and national assembly. Provincial units were given popular representation in National Assembly. While in the Senate, the provinces have been represented on

the basis of equality. Whereas the third section of the 1973 constitution, clearly states the distribution of powers between the federation and the federal units. Federal and concurrent are the two lists of powers. The provinces were granted residuary powers. The constitution does not provide specific authorities for provinces, but it has opted to grant them the authority to legislate on residuary problems not covered by the federal or concurrent lists. In accordance with stipulation in 1973 constitution, power and authority had to be delegated by the central government to provincial governments as their delegates; this delegation could be conditional or unconditional (Pakistan, 2018).

National finance commission is a vital element of the constitution of 1973. This commission's principal purpose is to distribute financial resources perpendicularly between the federal government and its federating units and parallel among the provinces. Before the allocation of National Finance Commission (NFC), the only criteria for the resource distribution among federating units was population and small provinces were not happy with this criteria. Balochistan has always struggled for influence over its wide terrain, and Sindh, where the highest tax was collected from banks and industrial sectors from the port of Karachi compared to the rest of the provinces, also had reservations. The Khyber Pakhtunkhwa (KP) desired recognition for its backwardness. However, in the eighth NFC Award, this criterion was revised, and various criteria were used instead of only population.

After the constitution of 1973, about the division of power between the centre and the provinces many issues arose. In order to create a strong federation, the conflict of giving greater authority to provinces in the constitution of 1973, considered as question. It is a history of efforts for provincial autonomy in Pakistan's many constitutions (Waseem , 2022).

As a result of the 18th Constitutional Amendment, provinces are in a far stronger position to raise health standards and improve overall public health. This study will conclude whether provincial autonomy promotes or hinders national integration. In this setting, relatively little literature has been published that could assist the researcher in conducting an in-depth analysis of the scenario. As a result, this literature study is limited and based on only a few publications written on the 18th Constitutional Amendment and its prospects and obstacles.

During this study, we will try to find out why we are still fighting for autonomy after passing a century and what kind of autonomy we desired. The struggle for autonomy, which has been going on for a century, has fundamentally reached its destination, and especially after the 18th Constitutional Amendment, autonomy has been achieved. Huge amounts of financial resources have been transferred and continue to be transferred to federating units. The federating units are now fully autonomous in making their own decisions in almost all cases, but despite all this, national unity and national integration are far from their original destination. As a whole, the social and political system of Pakistan is chaotic and disorganized. In this study, we will discuss the main points due to which the Pakistani nation is unable to achieve the national integration-

OBJECTIVES OF THE STUDY

Following are the fundamental objectives of this study:

1. To investigate the reasons behind the incorporation of the 18th Constitutional Amendment.
2. Whether the 18th Constitutional Amendment strengthened the federating by giving full provisional autonomy to the provinces.
3. 18th Constitutional Amendment boosted the quantum of Pro Autonomy by eliminating concurrent list.
4. 18th Constitutional Amendment is an emblem of democracy, civilian supremacy, provincial autonomy and federalism.
5. Through 18th Constitutional Amendment a bridge of National Integration can be establish between Center-Provinces relations.
6. Devolution is frequently opposed in Pakistan because to capacity constraints in lower tiers. How rational is this concern about capacity?

RESEARCH METHODOLOGY

The methodology of this research work is based on theory of federalism, which has been applied to the case of Pakistan and analytical approach. This thesis relies on a mix of primary and secondary sources of material. Data has been collected through secondary sources and analyzed qualitatively. Qualitative research is used to understand describe and explain social phenomena by using descriptive, interpretive and explanatory techniques. It is based on opinions, comments and suggestions of individuals for providing support to their arguments (Reynolds, 2008)

At this stage careful readings of the published works on concept of federalism is made significant struggle for autonomy in the sub-continent with reference to Pakistan other academic proponents and opponents of the theory. Secondary sources of material such as books, research articles published in reputable journals, reviews, online published material, magazines, gazetteers, newspaper, official websites, election results, and political parties' election manifestos etc. were used for the study of Pakistani case. The secondary sources were supplemented by some primary sources. The thesis is a synthesis of qualitative and quantitative research.

The general theoretical assumptions of a well-established model have been applied in the specific context of the demand for provincial autonomy in this study. The Explanatory research method was found to be suitable for explaining the

cause and effect link between provincial inequalities (cause) and the urge for national integration (effect). As a result, "provincial autonomy" is the study's independent variable, while "national integration" is the study's dependent variable

PROVINCIAL AUTONOMY

Politics of autonomy have always been quite difficult in plural communities in the third world. The issue of nation-building and the establishment of national integration is still a significant task in Pakistan, which is also a poly state with a range of numerous ethnic groups in the shape of provinces and they had claimed provincial sovereignty in all respects. Pakistan's government has long promoted national unification and integration through authoritarian and centralized measures. The state of Pakistan desired to transform provincial identity into Pakistani identity. The state's authoritarian methods exposed the role of ethnicity in provincial politics. The final outcome was the partition of East Pakistan in 1971. The similar policy was used following 1971. As a result, ethnic consciousness grew as a result of the four federating units' demand for provincial autonomy.

The importance of ethnic politics is undoubtedly influenced by political, economic, and social variables. The researcher identified four indicators to assess the threat to Pakistan's national integration in addition to underlining the elements responsible for ethnic politics and a conflictual environment. These factors include the leadership of a certain ethnic group, the middle class's mobility for a specific cause, the state's participation and its policies in defusing or intensifying conflict, and the role of outside support for a specific ethnic cause.

To build national integration in the nation, a certain structural and perceptual perspective needs to be developed. The state's role is crucial for achieving this goal. In plural societies like Pakistan, political activism, political reforms, and charitable giving might bring about change as opposed to adhering to the previous repressive policies.

PRE-INDEPENDENCE CONCEPT OF PROVINCIAL AUTONOMY

The British made significant administrative adjustments following the fight of independence in 1857. The British crown was given direct custody of India. Decentralization is crucial and is the answer to the administration and management challenges, the British understood when they were reforming the system. They valued the decentralization because of the subcontinent's lengthy, expansive borders and diverse scenario. Provincial autonomy was a frequent demand as a result of the British government's gradual decentralization, which gave the provinces more power. The centre and British government retained complete control over provincial affairs in the time of colonial administrative arrangement. Nevertheless, the Center enjoyed the position of ultimate authority in so many ways that British perception of true federalism sometimes seemed to be quite unclear (Nazir, 2008).

Due to the fact that India was becoming a politically conscious country while also experiencing widespread sectarian issues, the British were unable to stop the spread of democratic ideas and political consciousness in the 20th century. In this context, historians have drawn attention to British tactics, particularly "the divide and rule," which widened the chasm between Hindus and Muslims in India to the point where the ruling elites could no longer manage it (Tharoor, 1970). The British government realized that the only practical solution to India's sectarian issues was to divide the nation into larger sections or into a number of workable sub-divisions. After the 2nd World War the British began removing their colonies. The strategy of handing over direct authority to two separate states reach in its ultimate phase when Indian Independence Act passed in July 1947 by British parliament.

Newly created states India and Pakistan both adopted the Government of India Act 1935 as an interim constitution. This demonstrates that the British administration established federal ideas in India, though it did so gradually and with the help of a number of different experiments and the introduction of new laws.

THE GOVERNMENT OF INDIA ACT 1935

Between 1930 and 1932, to resolve the dispute and conflict, a round table meeting was organized in London. In March 1933 a white paper published, the conference's proposals were outlined. It was referred to a joint committee by the English Parliament after discussion. On November 22, 1934, the committee turned in its final report. Even though 19 members of the committee signed the report, nine of them disagreed with the suggestions. After receiving Royal assent on July 24, 1935, the report—which had been passed in December—became a law.

Table 4. Three lists under Government of India Act, 1935

Constitution	Provincial List	Federal List	Concurrent List
Govt of India Act 1935	54	59	36

Source. <https://www.jagranjosh.com/general-knowledge/government-of-india-act-1935-main-features-1443011759-1>

In the history of India and Pakistan, 1935 Act was very significant; it provided the foundation for both India's and Pakistan's future constitutions. It consisted of several parts. The Part two of this Act was about the federal structure. It was considered when a specific number of princely states would opt this mechanism; the second part of the Act would be applicable. That happened and For

the first time in Indian history, the power and influence were categorized into three checklist: central, provincial, and concurrent, with the Governor General having residuary powers. . Detail of three lists in the Government of India Act, 1935 is as under in table 4:

54 subjects were on the provincial list and 59 were on the central list. In conflict, the federal government had the final say. The centre and the provinces might both pass laws simultaneously. The subjects on this list totaled 36. The Governor General was supposed to decide whether specific powers should be used by the provincial or federal governments. A ministerial council was given to each province. With the exception of the discretionary powers that he might exercise by his independent judgments under the Governor General, their counsel was required for the governors. It was granted full province status to NWFP (Qureshi I. H., 2008).

At the federal level, the diarchy system was introduced. Two categories—transferred and reserved—were used to categorize the federal topics. Defense, finances, foreign relations, and tribal administration fell under the reserved section, which was solely under the Governor General's control. The Governor General would exercise all of the other (transferred) subjects under the guidance of the council of ministers who held positions. He had chosen these ministers (Nazir, 2008).

Several provinces were granted autonomy by the 1935 Act; The Crown, rather than the federal government, grants authority to these provinces. The federal structure, which divided powers between the centre and the provinces, distributed authority even further. These provinces had the authority to enact and carry out legislation. Their authority was nevertheless subject to significant limitations. The governors were granted unique authority, including the ability to veto legislation, act in an emergency, and need prior approval before introducing certain acts. The Governor General experienced the same thing. The administrative powers of the provincial governors were at his discretion, and they were answerable to the Governor General for duties like defending the rights of minorities and upholding law and order in the province. The British attempted under the 1935 Act (Chandio J. , 2013). Quaid-i-Azam vividly criticized the said Act, "it is devoid of all essential elements and fundamental requirements which are necessary to form a federation" (Naseer, 2007). The Act granted autonomy to the provinces on the one hand while taking away on the other by giving the Governor General the ability to act in all matters, and the Governor, who served as the Governor General's agent and was solely accountable to him.

PROVINCIAL AUTONOMY IN PAKISTAN RESOLUTION

The proponents of provincial autonomy argue in their critical study of the Declaration of March 1940 that at the moment of independence, Muslims tried to establish and retain autonomous states in British India, provinces should be conferred autonomy as well. The words of Pakistan resolution on this is excerpted here.

"No constitutional plan would be workable or acceptable to the Muslims unless geographical contiguous units are demarcated into regions which should be so constituted with such territorial readjustments as may be necessary. That the areas in which the Muslims are numerically in majority as in the North-Western and Eastern zones of India should be grouped to constitute independent states in which the constituent units shall be autonomous and sovereign" (Dawn, 1957).

Muslim League approved this resolution in 1941 and included it in their constitution. It was made clear that the resolution also demanded autonomy for one province of Pakistan.

The primary rationale for utilizing the term "autonomy" was that Muslims demand proper representation in elected bodies of government. Initially founder believed that the Muslims were treated unfairly since the British distributed authority unfairly in Bengal and Punjab, two regions with significant Muslim populations. Later on, he saw, however, that the quest for autonomy would not actually address this problem. By speaking at the convention in Delhi in 1946, he further demonstrated this.

Although the Indian Act 1935 conferred autonomy to the provinces for the purpose of protection of rights. However, proponents of the idea of provincial autonomy continue to make the case that Pakistan was previously thought of as a loose Federation with some degree of authority delegated to the provinces. In 1948 at Quetta, Quaid made it clear that he was ending provincial autonomy. The following is the pertinent passage from that speech:

"It naturally pains me to find the curse of provincialism holding sway over any section of Pakistan. Pakistan must get rid of this evil. It is relic of the old administration when you clung to provincial autonomy and local liberty of action to avoid control-which meant-British control" (Dawn, 2015).

POST-INDEPENDENCE EXPERIENCE OF PROVINCIAL AUTONOMY

The autonomy of the provinces has two meanings. First of all, provincial governments were fully answerable to their respective legislatures, and secondly, provinces enjoyed a great deal of independence from outside oversight and meddling. The terminology employed in numerous Articles was preserved in the Constitutions of 1956 and 1962 to a significant extent (Khan, 2010). Although it constituted a bicameral legislature, it kept a federal system, unlike earlier Constitutions. It had a Senate, an upper house with 60 seats, and a National Assembly, a lower house with 200 seats. While seats in the National Assembly were determined based on population, Senate had equal representation from all four of the federating states. However, the 1973 Constitution stands apart from the other versions since it established the Senate with equal representation of all provinces, ensuring that smaller provinces like Baluchistan are represented, and because the Senate participates in the system of checks and balances. (Khan, 2010). Urdu became only official

language of Pakistan, though Sindh substituted Urdu with Sindhi, and the Punjab thus held the vast majority of seats in the National Assembly (Adeney D. K., 2009).

As was previously indicated, the state's federal structure was established by the 1973 constitution, which also had two lists: a federal list and a concurrent list. Each federating unit provided the upper chamber or Senate with 14 senators for terms of four years, half of whom left office after two. The federal government had access 67 subjects in the Federal List, however the province assembly could make laws on the subjects on the Concurrent List. The central government's rights must, nevertheless, be supreme and prevail in disputes, under Article 143 (Kundi and Jahangir, 2002).

To strengthen the federation's spirit, a Council of Common Interest (CCI) was established. It was mandated that the President appoint members, and it had to have equal numbers of federal and provincial chief ministers. The Council would have been the absolute authority to hear concerns regarding natural water resources. such as delivery of water from rivers. The Council was also tasked with developing plans for railroads, electricity, oil and gas, and industrial development (Choudhury D. , 2005).

The Prime Minister Zulfikar Ali Bhutto gave a historic address on August 14, 1973, the day the constitution went into effect, declaring that the days of coups were over and that political violence must end (Khan, 2010). The Bhutto government, which drafted the constitution, did, however, hint at a bigger role for the Central Government, which stoked discontent among the Baloch and Pashtun components of the federating units. A Member of the National Assembly (MNA) and the former governor and chief minister of Baluchistan were detained on suspicion of corruption and seditious activity two days after the enforcement. The government of the National Awami Party in the NWFP was also deemed incapable of running the country's affairs, and it was said that the NAP operated illegally and in a way that was "prejudicial to Pakistan's sovereignty and integrity" (Khan, 2010). The federal administration also made an effort to suppress rival parties in the National Assembly and acted in a dissident manner (Kundi and Jahangir, 2002). The current state of affairs dealt federalism a significant blow, and little was remained displaced by Zia ul Haq's eight-year Martial Law administration.

PROVINCIAL AUTONOMY IN CONSTITUTION OF 1956

On March 23, 1956, the constitution that had been worked on for a long time—roughly nine years—became a legal requirement. It was frequently created using the 1935 Government of India Act as a template. This 1956 constitution was highly comprehensive and included the following articles, parts and schedule as shown in table 5:

Table 5. Articles, parts and Schedule under the constitution of 1956

Article	Parts	Schedule
234	13	06

Source: <https://lawwithshaheen.com/salient-features-of-1956-constitution-pakistan/>

Similar to the 1935 Government of India Act, this constitution established the federation. In this nation, federalism has to give the provinces a voice and a means of self-reporting. More than the 1935 Government of India Act, the devolution process was supported. A one-chamber or unicameral legislature, as opposed to federalism, was established by the 1956 constitution, which mandated a centralized and unitary organization. The second constituent assembly advocated for a bicameral system, which consists of an upper and lower house, and rejected this one as a framework. With the merging of the West Pakistani provinces into one, representation was supposed to be done on an equitable basis, which in some ways rectified the issue.

In a federal democracy, seats are maintained based on population in the lower house and representation that is equal and balanced throughout all houses of units. The situation was quite different in Pakistan, though. This nation selected a distinct form of federation, one with a unicameral legislature and representation based on equality.

According to the 1956 constitution, which split power among federal government and its units, federal, provincial, and concurrent were three categorize of subjects:. The federal (30), provincial (94), and concurrent (19) lists, respectively. The most complete list was the one for the provinces. Although it was stated that both the federal government and the provincial governments might pass laws on the same lists at the same time, in the event of a conflict, federal law would have the primary jurisdiction to settle the matter. Conflict arose between those in positions of power who supported a centralized government and those who supported provincial autonomy. It was being argued by both powers that the party they supported should be given authority and power. Supporters of the centre called for further powers for the centre, while advocates for provincial autonomy advocated that the provinces have this authority. The provincial legislatures were given the power to enact laws on issues not covered by the three lists above, as stated in article 109 of the constitution from 1956. The federal government received the bulk of the financial resources, while the provinces received the remaining, less substantial funds.

In large part, the relationship between the centre and the federating units was put in jeopardy by the emergency clause of the 1956 constitution. The strong centre movement laid the groundwork for the idea that combined and consolidated power was necessary

during times of war or other emergencies. The centre is responsible for the federation's protection. It was felt that such clauses were necessary by those who drafted the constitution. The federal government was given the power to provide for emergencies.

THE CONSTITUTION OF 1962 AND PROVINCIAL AUTONOMY

The 1956 constitution only lasted for two and a half years and was unable to make a significant difference in the conflicts between East and West Pakistan. The political environment became much more charged. On June 8, 1962, support for the new constitution was given. The 1962 Constitution was composed of the following articles, parts and schedule as shown in table 6:

Table 6. Article, Parts and Schedule under the constitution of 1962

Article	Parts	Schedule
250	12	03

Source: <https://studylib.net/doc/5275827/constitution-of-pakistan-of-1962---ibt-lumhs>

The sphere of the federating units was significantly condensed by the 1962 constitution, which was also highly centralized. The lower and upper houses of the bicameral system, as was also previously noted, are what give the federation its strength. The constitution of 1962, however, mandated a unicameral legislature, just like the constitution of 1956. In accordance with the constitution of 1962, there was a very straightforward division of authority between the federal entities and the central government. The remaining subjects were left up to the provinces, and there was only one federal list.

When it came to matters covered by the third schedule of the constitution, the centre of Pakistan had the final say in how laws were enacted. Compared to the central list of the 1956 constitution's thirty subjects, there were 49 listed there. Any law could be passed by the federal legislature citing national interests as justification. Additionally, they may pass laws on topics related to provinces when the provincial government grants the federal government this jurisdiction, as long as the subject is absent from the third schedule.

Constitution of 1962 is often referred to as a one-man show. It led to substantial autonomy regarding provinces in East and West Pakistan. Only Punjab from West Pakistan, which received the well-developed position, remained opposed to calls for province autonomy. The constitution of 1962 barred Bengalis from participating in preliminary political, social, fiscal, decision-making, led to enormous movement for autonomy in East Pakistan, which demanded that all other powers be delegated to the provinces except currency, defence and foreign policy. The use of military power against East Pakistanis thwart them push for maximum autonomy led to an expansion of the liberation movement, which in turn gave rise to Bangladesh.

THE CONSTITUTION OF 1973 AND PROVINCIAL AUTONOMY

East Pakistan's tragedy, which is now known as Bangladesh, delivered a message of despondency to the rest of Pakistan. Yahya Khan submitted his resignation and asked Mr. Zulfikar Ali Bhutto to establish the government as he was the head of the majority party in West Pakistan. Making a new constitution for Pakistan was the difficult task Bhutto was faced with. The future constitution should be based on the parliamentary democracy idea, according to a broad agreement among all political parties. Only a few parties advocated for a loose federation with significantly larger provincial autonomy.

Bhutto created a constitutional committee on April 17, 1972, made up of 25 members of the National Assembly, to draught a draught constitution. A consensus was obtained and a new constitution was created following nearly one and a half years of protracted discussions in the national legislature. The new constitution was officially enforceable on August 14, 1973. A commitment was made in the Constitution of 1973 that authority would be gradually transferred to the representatives of the smaller provinces. The 1973 Constitution was composed of the following articles, parts and schedule as shown in table 7:

Table 7. Article, parts and schedule under the Constitution of 1973

Article	Parts	Schedule
280	12	06

Source: <http://www.commonlii.org/pk/legis/const/1973/>

The federation now has a bicameral legislature thanks to the 1973 Constitution. The federating units were represented according to population in the national assembly, although in the senate, it was done on an equal basis. The third portion of the constitution also clearly and distinctly divided power between the national and provincial governments.

Federal and concurrent lists of powers were the two lists available. The provinces received the remaining authority. The constitution did not establish specific legislative authority for the provinces, but it did grant them the ability to pass laws on residuary

issues that are not included in either the concurrent list or federal list. In the constitution of 1973 a clause specified that provinces governments would act as the central government's agents in the delegation of power and authority. Additionally, this delegation may be either conditional or unconditional.

The National Finance Commission was a significant feature of this constitution in 1973. This commission's primary responsibility is to distribute funds parallel and perpendicularly among the provinces and between the centre and the rest of the country. Prior to the NFC award, the only criterion was population, which the provinces, with the exception of Punjab, did not like. Baluchistan has always struggled to exert power over its wide region, and Sindh has always paid a disproportionate amount of taxes to the ports, commerce, industry, and bank output of Sindh. The NWFP wished to be taken into account for its sluggishness. However, this criterion was altered for the eighth NFC Award, which used numerous criteria rather than just population.

THE 18TH CONSTITUTIONAL AMENDMENT AND ITS IMPLICATIONS FOR PROVISIONAL AUTONOMY

The Pakistan Resolution's fourteen points, all of which expressed the desire for provincial autonomy, were one reason why the 1947 Partition occurred. This denial of autonomy to the provinces was a contributing factor. Similar to how the sad incidents of 1971 were about a scarcity of provincial autonomy, Sheikh Mujib-ur-Rehman's six points of were also revolve around it. For example, seven of the twenty-two points of consensus reached by ulema from a variety of ideologies in 1951 focused on the power concentration by promoting a presidential system, rejecting ethnicity, and a unitary government structure with provinces serving as administrative divisions. During the Ayub Khan administration, these ideas were tested, and even General Zia went so far as to rule out political parties' potential involvement in the system of government. The political elite, on the other hand has consistently called for greater provincial autonomy, whether it be through the MRD Declaration, the Charter of Democracy, or the Jugtoo Front's 21 Points (CoD). He also explained the distinction between "decentralization" and "devolution," saying that the former involved the central government granting specific rights and jurisdictions to constituent entities, while the latter involved the constitutional delegation of authority to diverse government actors.

During the constitutional discussion, there was absence of human rights protection and overall absence of faith in the Constitution. Because 52% of our country's history had passed without a constitution or one that had been altered by PCOs and other entities. A nation's constitution may fall into one of three categories: a set of laws, a set of customs, or a piece of political literature. The "lawyer's constitution" could be used to describe the constitutionalism in the Sub-Continent as a whole, this was also actually the truth in Pakistan, under which lawyers influenced the experts who in 2010, drafted the manuscript from its first account to its latest phase. Therefore, critics claimed that there are legal solutions available in the constitution of Pakistan, urging previous governments adjust it in their respective wishes: it is overridden by ruling classes, military regimes tried to made it comfortable as per requirement, religious factions have identified nonexistence of compliance to Sharia, and it is to Islamic according to secularists. Despite fact that the unanimity constitution was so sacred that even a typo required a 2/3 majority to be changed, the issue of how it was used had scarcely ever been discussed in Pakistan.

Pakistan had been embroiled in ongoing or dormant hostilities since 1947, which had strained civil-military ties and split the country along racial, factional, sectarian and religious pattern. The Charter of Democracy (CoD), which was signed on May 14, 2006 consisting of 38-points between two political rivals, was special since it contained a public commitment to support democracy, CoD remained consensus. Only half of the CoD's nine points—which called for a constitutional amendment—could be fulfilled by the 18th, 19th, and 20th Amendments. All consequential damages and efficiencies ascertained in the constitution by military dictators were reviewed, but small number eliminated. The predicted establishment of Federal Constitutional Courts, non-appointment of PCO judges, and integrating FATA with NWFP did not occur. The five points that called for new organizations like the Truth and Reconciliation Panel, a Kargil Commission, a National Democracy Commission for Civic Education, and a commission to examine legality of land allotments to the military were also not followed through on. While only six of the eleven items that called for laws and 6.5 of the ten points that called for executive measures and policy changes were accomplished. Reforms to pro-poor policies, citizen-centric governance, and a code of conduct were issues that were overlooked.

It is important to highlight that three tools were implemented that strengthened provincial autonomy under the coalition administration led by the PPP. First, the political establishment created the 7th National Finance Commission (NFC) Award, that not only increased the provincial proportion but also included, for the first time, a multi-sectoral formula for resources allocation and offered premiums to particular provinces. For instance, the criteria were inverse population density; Khyber Pakhtunkhwa earned 1% payment for battle damages, whereas Baluchistan received larger share as aspect of "Aghaaz-e-Huqooq" In light of the Charter of Democracy, a Parliamentary Committee on Constitutional Reforms established, followed by a Parliamentary Committee on National Security.

Khan contended that the 18th Constitution Amendment's deliberative process was just as rigorous as the creation of the 1973 Constitution (Khan, 2010). Initially, it was agreed to analyze the entire constitution while discussing the 18th Constitutional Amendment. A total of 981 policy papers, recommendations, and ideas were studied by the government in addition. Ninety-one private member legislation were also taken into consideration. The committee comprised approximately twenty-six opposition-dominated functional members who happened to meet for nine months over seventy-seven meetings.

Comparatively, the 1973 constitutional committee, which had 25 members and was chaired by Mahmud Ali Kasuri and Abdul Hafiz Pirzada, convened 48 times to prepare the constitution while receiving eight notes of dissent. In the beginning, this led to constitutional treaties that served as a model for the constitution to come. But in the case of the 18th Constitutional Amendment, the Charter came first. In addition, the 1973 committee included three women as compared to none and no members of minorities on the 18th Constitutional Amendment committee.

The actual amendment, which added more than 100 articles and changed 34% of the Constitution, as well as supplemental constitutional changes, the removal of two schedules, as well as presidential protection, and eleven executive branch suggestions, including FATA and civil service reform proposals, were among the Committee's proposals. For the 18th Constitutional Amendment, an Implementation Commission (IC) was formed to handle tasks that considered necessary to be assigned to the provinces after the concurrent list was eliminated. The country celebrated provincial autonomy when the IC, which was legally required to meet a deadline, completed it on June 30, 2011.

Pakistan's "New Constitutional Software," term is used by Khan regarding to the 18th Constitutional Amendment as which led to change half of the 34 aspects associated with provincial autonomy. It had essentially rewritten the federal-provincial treaty and was distinct from other legislative, administrative, and fiscal reforms in that it had come about internally rather than being pushed by donors, as is the case with the majority of donor-driven reforms. The unique concept of "institutionalized powers" was also introduced by the 18th constitutional amendment. Parliament, rather than the President or Prime Minister, now has the power to choose the number of ministers, ensure that the Council of Common Interests and National Economic Council provide annual reports, evaluate candidates for judicial appointments, and determine the NFC's percentage share.

In addition, without it, the Election Commission would be unable to function, and other elements like caretaker governments, referenda, or new commissions like the National Commission on the Status of Women (NCSW) and National Commission for Human Rights (NCHR) must also follow the proper procedures with the parliament.

CONCLUSION

Through the 18th Constitutional Amendment, it is amazing that it was decided to give more autonomy and authority to the provinces in the constitution, furthermore, this amendment is useful because it prevented the federal government in declaring an emergency without the provincial government's approval. Furthermore, basic privileges such as the right to an education, the right to information and the right to a fair trial were decided to increase, and Article 140-A was created to provide minimum requirements for the provinces to establish local government entities.

Khan concluded his discussion of the federal-provincial relationship in the reference of providing social services by highlighting two current models. both "liberal model," in which customers paid fees for services, and the "welfare model," in which services were paid for by tax payers. The design of constitution flaw or "catch" was that the fulfillment of important social, economic, and cultural rights was dependent on the availability of resources, even though these rights were included in the "principles of policy." The policy domain in question was either assigned, defined, or joined-up by parallel methods in the constitution. In Pakistan, on the other hand, everything—government, finances, institutions, philosophy, and policy—comes from Islamabad, and because we've adopted a "federally planned and provincially implemented" development model, the social sector has been given little importance. A Planning Commission assessment found that as much as 80% of the development budget was underused annually, which resulted in underwhelming social indicators and poor levels of human development. This had led to donor dependence. For instance, the devolution of education was opposed by a small number of political parties despite the fact that Article 147 allowed provinces to request that Centre carry out specific tasks on their behalf. In addition, only the federal district and Sindh have implemented the 18th Constitutional Amendment, which makes the access to education a fundamental right. Punjab was the only province to develop its own curriculum authority; Sindh and Punjab also constituted Provincial Higher Education Commissions.

Understanding that this was a time of transition, devolution autonomy by devolution was necessary, and needed infrastructure such as a Special Committee of the Senate, a Standing Committee of the CCI, and a Prime Minister's Special Committee had been established. He contended that the administration now needed to do its fair part of the work that the legislature had completed. The 19th Amendment was approved by the parliament in observance of the brief order of the court. It had also reinforced the Election Commission of Pakistan and the caretaker government through the 20th amendment. The Census plays very vital role for resource distribution but it had been delayed since 2008, he continued, in order to support the 8th NFC Award. Additionally, devolution came at a considerable cost and required a culture of cooperation between the Center and the Provinces in order to be successful. The Supreme Court served as the arbiter of disputes between the federation and the provinces.

The two issues that did become public, namely the dispute over the appointment of judges and the rebranding of NWFP, confirmed the committee's worries. In response to criticism that the 18th Constitutional Amendment was not properly debated because it took the National Assembly and Senate 4-5 days to approve it, According to the committee, party representatives were accountable for bringing back feedback from their various stakeholders. If there was no practice of holding party meetings, formerly perhaps there was another problem. Additionally, position papers were requested from committee members and the parties they were affiliated with so that parties and lawmakers could follow.

Following the discussion, it may be suggested that the government uphold its constitutional obligations by regularly calling meetings and establishing the CCI in order to avoid clogging the council meetings' agendas and further straining relations with the centre provinces. There should be no more eluding the CCI in matters pertaining to shared center-province interests. It is necessary to implement subordinate legislation and provide clarifications for the constitution's ambiguous articles. Additionally, as the constitution had said, a permanent secretariat for the CCI should be formed. Recognition of ethnic identities and their fair inclusion in organizations that truly matter would certainly foster a sense of allegiance to mainstream politics. (Adeney K. , 2015). In this regard, the CCI can be extremely important in ensuring participatory federalism. The democratic process must continue, for obvious reasons. Pakistan is currently going through a transitional phase. Power has been peacefully transferred from a democratic government to a civil authority. The 18th Constitutional Amendment and the 7th NFC award only mark the beginning of efforts to improve relations between the centre and small provinces and to allay their complaints. For national integration and national integrity to be achieved, pluralism must be accepted and recognized. It will uphold the idea of variety within unity. The constitutional framework should be followed by all institutions. the beginning of an intra-institutional debate to put a stop to past conflicts, resolve questions of jurisdiction, and cooperate to accomplish national goals (R.R, 2015). This would enable coordination and collaboration while avoiding conflict between or among institutions. Regular discussions in CCI meetings should be held due to the nature and significance of the CPEC project. Its significance is multifaceted: the constitution mandates that injustices from the past be made right, and the CPEC project was designed to bring neglected and underdeveloped provinces up to the level of developed regions. As a result, discussions and the fair distribution of projects under the CPEC are crucial.

The 18th Constitutional Amendment established a balance between the federal and provincial tiers of authority, despite the fact that the benefits of this vertical devolution have not been dispersed equally by the provincial capitals to the lower tiers of government. An organization that is well-known around the world ensures a just distribution of power among the federating institutions, including the local governments. However, Pakistan's chances of holding local elections remained slim.

The effect is that the provincial legislatures and governments now have an excessive level of control over budgets and policy. The creation of local governments with real budgetary and administrative authority transfers to local governments at the district, tehsil, and union council levels may have been the appropriate legislative tool for trickle-down decentralization in this case.

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