



Research papers series is part of project, “Strengthening Federalism in Pakistan”

Civil Services Reform and 18th Amendment

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Brief Overview:

Several commissions were set up and reports have been written to reform the Civil Services of Pakistan. Now, it is being anticipated that 18th Amendment may have an impact on the Civil Services of Pakistan. However, before we assess what impact 18th Amendment may have on the civil services, it would be appropriate to assess and evaluate the earlier reform efforts. This paper will be divided into four parts; first, it will provide a brief overview of origins and evolution of civil service in Pakistan. Second, it will briefly review and evaluate the reports of four commissions set up by the government of Pakistan from 1972—2009 (Each report and its findings and recommendations must be understood, interpreted and evaluated in the context of three essential factors; first, the prevailing socio-political environment, second, the regime type (democratic/political/authoritarian military) and third, the ruler’s imperative). Third, it needs to be recognized that the focus of reform effort has been only the higher bureaucracy and not the provincial governments, the paper will explore why that is the case. Finally, it will assess how the 18th Amendment may affect the Civil Services?

Historical Overview

Colonial heritage of Pakistan has been a potent force in influencing the political culture and bureaucratic and political institutions of the country. During 150 years of colonial rule the British laid the foundations of strong centralized and effective bureaucratic institutions, where elected public officials and parliamentary institutions had limited role. A number of scholarly writings recognize that Pakistan inherited 'strong bureaucratic institutions' and 'weak representative institutions'.ⁱ During the Raj, through bureaucracy the British provided patronage to landlords, religious and tribal elders by providing land grants, titles, pensions and other rewards, thus co-opting them to ensure political stability. Thus the colonial rule laid the foundations of patron-client relationship.ⁱⁱ In the post independence period this patron-client relationship between the bureaucrat and the local elites acquired new meaning and salience in the rural setting of the districts. As and when the electoral process gained legitimacy, this further reinforced the patron-client relationship and the political culture of factionalism that ensued in rural Pakistan. The bureaucrat became and was perceived to be the guarantor of security, provider of patronage and protector of local elites influence and power.ⁱⁱⁱ Thus a culture of politics and representation that could have allowed the evolution and development of political parties did not emerge. Patronage and reward distribution were monopolized by the bureaucrat and not by the political party. Therefore, for landlord families in the rural power structure, it became imperative to have one of their family members to be part of government to provide patronage, extend influence and ensure security.

From 1947 to 1971, the military governed, the bureaucracy ruled and the political parties and their leadership dithered. During this period, the military-bureaucracy nexus gained momentum and consolidated their hold on key policy making institutions in the country. However, it was the elite service – the Civil Service of Pakistan (CSP) that dominated the positions of policy and decision making in the country. The collapse of Pakistan (1971) was followed by the weakening of both the civil and military bureaucratic institutions in the country.^{iv} The break up of Pakistan also marked the ascendancy of the political leadership and political party in re-directing and asserting its control in shaping the public policy and decision making at the highest level. The Pakistan Peoples Party

(PPP) under Zulfikar Ali Bhutto assumed power and sent a clear message to both the military (by purging 29 officers above the rank of a Brigadier) and the bureaucracy by dismissing 1,300 civil service officers. Therefore, it needs to be recognized that the push for civil service reform occurred under the popular perception and reality that real power was in the hands of the bureaucrats and that demanded a structural and behavioral change. The drivers of the civil service reform effort were motivated by the belief that the people could be empowered only by cutting the bureaucracy to size and by establishing the supremacy of the elected officials over the non-elected officials.^v Thus the politics of civil service reform is driven by considerations of subordinating bureaucracy and establishing the supremacy of the political and in the process governance reform, ensuring effective implementation and improving delivery of services has remained marginalized.

Content and Context of Civil Services Reform

For purposes of brevity conceptual clarity, and historical sequencing these four Reports (namely, 1973 Civil Service Reforms, Anwar ul Haq Commission Report, Fakhar Imam Report and Ishrat Hussain Report, can be divided into two broad periods; 1972 to 2001 and 2001 to 2009. During this span of time three salient trends in reform effort in Pakistan can be identified. First, the reform has primarily focused on reforming the federal government and its structures. Second, the 1973 reforms and 2001- 02 Local Government Ordinance (LGO) were radical departures from the existing philosophy and operational rules of governance, therefore, both had deep impact on the character, composition, orientation and outlook of the higher civil services. Third, the 2007 National Commission Government Reform (NCGR) appeared to have a broader mandate of reviewing the federal, provincial and local government and its working but its focus remained Civil Services and not the system of governance. Why did that happen? Has that in anyway changed the direction of reform effort? Did these reform efforts improve governance, delivery of services and empowerment of people? That remains a critical question and will be examined in conjunction with the 18th Amendment.

Assessing and Evaluating Civil Services Reforms

The following section will review and evaluate findings of four commissions and reports set up by the government of Pakistan from 1972—2009. Each report and its findings and recommendations must be understood, interpreted and evaluated in the context of three essential factors; first, the prevailing socio-political environment, second, the regime type (democratic/political/authoritarian military) and third ruler's imperative!

The broad thrust of these reforms has not been re-organization, rejuvenation and “re-invention” of the entire government machinery but the primary focus has been reforming one major segment of the government -- the Higher Civil Services of Pakistan. The assumption being that both in perception and reality power resides there. Political reform i.e., reform of political parties, representative government and their linkage with the administrative set up of the country has remained peripheral. Therefore, another important component of government reform i.e., defining the role, relationship between the political and administrative components of government has neither been considered important nor addressed adequately in these reports. It is important to note that the Reports are emphatic in underscoring that the key governance issues are: *Non-adherence to procedures, absence of rule of law and accountability, departmental weaknesses, over staffing of the departments, inadequate incentives for the civil servants, inter-departmental frictions, and lack of adequate, authentic and timely information, inaction on corrective reports.*

First Phase: 1973-2001

During this phase three significant reforms were formulated and two were partially implemented. As noted above the distinguishing feature of this phase is that their primary attention is on the federal government and that too on the higher civil service. The focus remained on dispersal of power from higher civil services. Enough attention was not paid to streamline provincial cadres, departments and make room for strengthening provincial autonomy, nor do these reform efforts suggest measures for improving delivery of services, empowering citizens or provide remedies that promote citizen welfare. The primary thrust remains de-concentration of power at the highest

echelons. In the following section a snapshot review of each reform i.e. 1973, 1978-79, 1999 and 2007 reforms will be presented.

Civil Service Reforms under Zulfikar Ali Bhutto

The 1973 reforms were conceived and designed in haste. The socio-political environment was rife with discontent, bureaucracy was discredited because of agitation and protest in the urban centers and break up of the Pakistani state.^v The PPP and its leadership had assumed power through popular vote; therefore the ruler's imperative was to establish super ordinate-subordinate relationship between the elected public officials and the administration.^{vii} Taking cue from the findings of earlier experts' reports such as; Rowland Egger Report (1953), Bernard L. Gladieux Report (1955), Paul L. Beckett (1957), Cornelius Report of 1962 and Fulton Commission Report 1968.^{viii} The 1973 reforms struck at the very core of elitist edifice of Pakistani bureaucracy- the Civil Service of Pakistan (CSP) which had maintained supremacy through constitutional protection, cadre system and exclusivity of training. The 1973 reforms disrupted this by including unification of grading structure, abolition of classes among civil servants, promotions in horizontal movement, job evaluation, induction of private sector individuals in specified fields and a Common Training Program (CTP) for all federal services. An important and innovative initiative of Private sector induction or lateral entry because of lack of transparency and violation of principle of merit and professionalism becomes politicized and is resented and resisted by the bureaucracy and fails to gain legitimacy among stake holders.^{ix} These reforms had positive and negative impact on the civil services of Pakistan. The negative impact has been that it led to politicization of bureaucracy and also took away the constitutionally granted security of service that earlier constitutions had provided. The positive impact has been these reforms established the supremacy of political leaders on the policy process and cut to size the role of bureaucracy. However, over all the negative impact that looms larger—violation of merit, dismissal of civil servants without due legal process, unwarranted political interference in postings and transfers, thus making bureaucracy docile and subservient to the politician – undermining personal and institutional integrity of the civil services.

These reforms also alluded to empowering citizens through Local government but did not develop its blueprint. These reform efforts also show serious gaps not only on how to improve federation, province, local government functioning but also are deficient in suggesting ways for inter-departmental coordination, re-organization of individual departments and streamlining their individual needs i.e. human resources management, management performance, capacity building and improving delivery of services.

Socio-Political environment and ruler's imperative: Anwar ul Haq Commission Report (1978-79)

General Zia-ul-Haq as the military ruler of the country was bitterly opposed and motivated to reverse and defuse Bhutto's reformist policies. To re-incarnate the CSP and restore their confidence he appointed Anwar ul Haq a former CSP to head a commission on the civil service reform.^x This report is a critique and re-assessment of 1973 reforms. It recognized that the restructuring done by the Bhutto reforms could not be dismantled but improvisation within and restoring the damaged glory of the erstwhile CSP was desirable goal. These reform proposals were formulated in a socio-political environment where the CSP were alienated, politicization of bureaucracy, corruption and street violence was on rise and the party system was in disarray. Under the military regime the ruler's imperative was to mend fences with the higher echelons of bureaucracy. Therefore at the federal level the report made a case for restoring constitutional guarantees for the higher cadres, selective lateral entry, revitalizing training, respecting merit and empowering public service commissions for ensuring recruitment on merit. It also recommended fixing tenures of chairman and members of the federal and provincial public service commissions. The important contribution of the report was that it expanded the reform domain to provincial and local government. The guidelines provided in this report on the subject continue to resonate well with the higher echelons of bureaucracy, particularly the District Management Group (DMG).

Based on its guiding principles of effective accountability, equality of opportunity, professionalism, security of service, power and authority decentralization, and continuous review and modernization of the government organization, the commission made following recommendations specific for the Provinces:

Merge Tribal Administration Group (TAG) with DMG and share of PCS officers is fixed at 40 percent in the merged section, which will provide adequate promotion opportunities to them. (However, no consensus could be evolved on the question of nomenclature for merged TAG and DMG). The report has been emphatic in changing the nomenclature of section officer to under secretary, suggesting years of service and promotion to next grade and streamlining flow of postings from field to Secretariat and vice versa.

On District, Local Government and relations with the Province the report also took a position and made recommendations that comforted the higher bureaucracy and also the provincial political leadership. It retained Deputy Commissioner as the lynchpin of provincial administrative set up and Division as unit of administration. Local bodies were restricted to administration of justice (minor criminal and civil cases), provisions of small industries, education below university level, health and veterinary, administration of local village police, modernization of agriculture, forestry and fishery fields, construction and maintenance of roads and irrigation channels, and management of food rationing, population planning, social welfare and community development programs. Elected officials (chairman district council) were reduced to auxiliary roles. Less noticed but important contribution of the report was that it gave salience to Gender issues at a time when the military regime was least receptive towards this. The Report recommends to correct male-female imbalance by catering female training needs, providing them female trainers, and including females in the selection process as well, making part-time jobs available to them and allowing transfer of spouses in case of their transfer .

Fakhar Imam (1999) REPORT OF THE COMMISSION ON ADMINISTRATIVE RESTRUCTURING ON RE-ENGINEERING OF THE FEDERAL GOVERNMENT ORGANIZATION as the title suggests, endeavors to lay out a framework for an administrative restructuring of the Federal Government and its communication linkages with the provincial governments.^{xi}

The very composition of this Commission clearly indicates that the political leadership and the ruling party took a serious note of governance issues in the country and aimed

to review and reform the structure of the administrative set up in Pakistan. At the federal level the report recommended merger of some ministries and elimination of others but did not suggest any mechanism as to how to achieve these. Like earlier endeavors the primary focus was on the administrative structure of the federal government and not on the provincial government.

The commission's agenda was administrative restructuring but the 'Terms of Reference' were enlarged to include civil service reforms package. It is disconcerting to note that this over 370 page report fails to come up with any concrete suggestions on civil service reforms and improvidently allocates a specific time period on unspecified training of the staff to be declared 'Surplus/Redundant (S/R)'. (As an observation: instead of reallocation of such S/R staff through training, micro-credit schemes, which all could further increase burden on government's purse instead of reducing it—as is the objective of the report—why not halt new recruitments and adjust and reallocate the available S/R staff to other posts till the objective is achieved. Also, it fails to notice that the required computer training can be achieved within few weeks not in years as being recommended).

When it comes to Federal-Provincial question, the commission recommends transfer of power to the provincial government in some specified areas but, in tandem, favors maintenance of the federal government interference in the provinces. Ironically, it recommends that the Prime Minister personally oversee the process of restructuring and re-engineering (R&R) of the civil service reforms and the government; this report suffered from same limitation and myopia that 1973 reforms had—that is establishing super ordinate – subordinate relations with the bureaucracy is nightmarish without consolidating representative institutions and institutionalizing party system.

On streamlining the provincial departments it made an important recommendation in terms of re-organization and transfer from federal to provincial departments. It recommended that in those ministries of Concurrent List, where federal government role is confined to coordinating and obtaining of foreign assistance, these may be appropriately provincialized in thorough consultation with the provincial government for smooth transfer and on the priority basis. The list appropriately included Environment, Forestry, Agriculture & Livestock, Health and Education, Local Government and Rural

Development, Social Welfare Development, Population Welfare & Special Education. This is recommendation which is still worth pursuing and has been made by National Commission on Government Reform (NCGR). As per 18th Amendment almost all of these ministries have been devolved to the provinces.

Ishrat Hussain Report, National Commission on Government Reform --NCGR (2007)

The NCGR Report like the CAR report quite extensive and largely focuses on the federal government but does provide considerable support and insight on provincial and district government reform.^{xii} Since this commission was constituted under President Musharraf therefore it ventured to integrate local, provincial and federal tiers of the civil services.

The report proposes three tiers of services; All Pakistan Service (APS) (17-22 Occupational Groups, 20-22-National Executive Service), Federal Civil Service (17-22), Provincial Civil Service (17-22) and District Civil Service (1-16). Further, it suggests combining the District Management Group (DMG) and Police Service of Pakistan (PSP) and renaming as Pakistan Administrative Service (PAS). Transform current and future positions in the Federal and the Provincial Secretariats Group into a National Executive Service (NES) for Grades 20-22 and recruitment be made directly through the Federal Public Service Commission. The NES will consist of four specialized cadres Commission an independent study of patronage in personnel decisions. i.e. Finance and Economic Management, Social Sector Management, Regulatory Management and General Management. Also, group together the positions of Tehsil/ Town Municipal Officers (Grade-17), Executive and District Revenue Officers, District Planning Officers, District Finance Officers, District Coordination Officers, and other relevant positions at the level of the Provincial and Federal Government under the PAS and share them with the PMG.

The Provincial Civil Services shall consist of five components, namely:

- i. Provincial Management Service (PMS)
- ii. Provincial Executive Service (PES)

- iii. Provincial Technical Services Cadres such as Irrigation, Communications, Education, Health, Police etc.
- iv. Provincial Judicial Service (PJS)
- v. Subordinate Employees (Grade 1-16)

The PMS would fill in the positions at Tehsil, District, and Provincial Government level of generalist nature such as Tehsil Municipal Officer (TMO), Deputy District Officer (DDO), Executive District Officer (EDO), and District Officer (DO) in Revenue, Finance, Planning, and Community Development Departments. The PES will be constituted on the lines of the National Executive Service.

(At District Level) The District Cadres posts (1-16) may be constituted only for the departments, where there is a minimal critical strength and viable progression structure. The teachers and health workers be appointed on contractual basis; and the post of District Coordination Officer be re-designated as District Chief Operations Officer (DCO).

Role and relationship between the Provincial government and District government

Develop multi-year development plan for the province and delineate the responsibilities to be undertaken by the District Governments. Formulate the overall Provincial Policing Plan and ask the District Police Officers to develop the District Policing Plans within this framework. Establish the overall procedures of financial management and reporting and personnel management to be adhered to by the local administration. Establish overall procedures for personnel management, especially procedures and processes for arbitration and review of employment disputes. Ensure the establishment and effective functioning of the District Public Safety Commission, Zila Mohtasab, Musalahati Committees, Monitoring Committees and others under the Local Government Ordinance. Hear and rule on complaints against, either the District or Tehsil administration, or against the elected councils and leaders, regarding deviations from policies, regulations or law. Establish and provide training programs and institutions in support of the local government civil service. Provide professional guidance, standards, technical assistance and skills to technical staff in the Districts and Tehsils. Exercise specific routine and periodic oversight and inspection in regard to the performance of

Districts and Tehsils as mandated by law. Provide such guidance, oversight, and support to local administration, as required under the law, passed by the Provincial Assembly. Monitor and evaluate the District Development plans and District Policing Plans and take action for deviation, slippages, and non-achievement of the targets.

The report recommends broadening recruitment sources by building relationship with universities and other professional educational institutions, participation in job fairs, seeking services of professional Head Hunting Organizations, improving advertising copy writing and customer services.

Strengthen the institutional infrastructure, expand the scope of in-service training opportunities for the majority of officers working outside the cadre services and upgrade the quality of training institutions. The Provincial Management Academies expand their activities for the training of their newly inducted generalist officers on the lines of the Federal Government. As the majority of the officers of these Governments and District Governments are in the field of education, health, police, agriculture, engineering and municipal services, professional training of these officers should also be made mandatory and linked to their promotion.

In-service training after certain intervals of time shall be provided to ex-cadre officers. Provincial governments shall be asked to expand their activities to in-service training on the lines of the Federal Government. All training institutions should be autonomous bodies with their own boards of directors and consist of eminent persons in their fields. The Board should enjoy the financial, administrative and operational powers to manage the training institutions in an effective manner.

The report gives two options; first (O-I) is to establish a centralized Training Division under S&GAD which will be responsible for TNAs, track training needs of officers, advice training institutions, and coordinate all public sector training institutions. The second (O-II) is to establish a decentralized training system in which each department in the provincial government is responsible for the training officers under its control.

Introduce quantifiable Performance Management System (PMS) in place of the existing system. Consider officers in order of seniority and give weight age to PERs (70%), TER (15 percent) and Evaluation by CSB (15 percent) for promotion.

Implement the Placement Policy approved in 2005 in letter and spirit. Ensure open and transparent appraisal system in which both post holder and reporting officer are clear about objectives. Develop ability to effectively manage poor performance. Design, develop, disseminate and enforce guidelines for Career Planning and strengthen the Career Planning Wings in the departments.

To strengthen the monitoring and oversight functions of the Provincial Governments, post the Members, Board of Revenue with a limited staff at the Regional headquarters and assign them the powers to inspect 08 to 10 District Governments each year, to ensure that the policies, standards, rules and regulations are being observed. Invoke participation of potential beneficiaries and by reflecting the priorities of the communities, attract their participation in the implementation and monitoring of the projects. Instead of provincial or federal, local governments are provided with funds to and expertise to plan and execute development projects. Introduce the system of Illaqa Magistracy.

The four reports demonstrate a broad on Strengthening Provincial Public Service Commission (PPSC) and upgrade the recruitment system by developing job specifications.

Civil Services Reform, Constitutional architecture and 18th Amendment

Given this context of reform effort, it becomes evident that while the focus of these commissions and reports has been the federal civil service—each report does recognize that building connections across federal, provincial and local governments is imperative. From the above analysis of reports it also becomes clear that progressively i.e. 1973, 1978-79, 1999 and 2007 recognition of provincial autonomy and need for building the capacity of provincial civil service cadres is given salience by all reports under review. There is broad consensus among all reports that Provincial Public Service Commissions be strengthened and reformed. These reports also reveal that at political and bureaucratic levels the rights, responsibilities, and interest representation of provinces

has gained momentum. In this sense of restoring balance between the federation and federating units the 18th Amendment has emerged as a landmark piece of legislation that could lead to paradigm shift in Pakistan's mode of governance and constitutional architecture.

The 18th amendment has been promulgated as a legislative tool which could facilitate a power sharing mechanism that, Arend Lijphart a leading exponent of federalism, while formulating a constitutional design for a federal system, "*denotes the participation of representatives of all significant communal groups in political decision making, especially at the executive level...*"^{xiii} Therefore, it would not be entirely wrong to assert that, despite supporting an obviously political tenor, the 18th amendment has implications beyond the domain of provincial legislatures; it would have an impact on the very structure of federal and provincial civil services. Before we discuss the nuances of these implications or seek to do justice to the ramifications thereof, it would be only fair to appreciate the political system of the society and the existing institutional arrangements within it.

The Constitution of 1973 aspired to strike a balance between the overarching authority of the federation and the autonomy of the federating units. Over the years, despite serious hiccups, this aspiration of maximizing provincial autonomy within the ambit of federal system has continued to persist. The 8th and the 17th amendments undermined the very spirit and the foundations of the 1973 Constitution. The 18th Amendment is an attempt of the democratically elected government to rescue and resurrect the federal spirit and revive the principle of provincial autonomy as embodied in the 1973 constitution. In order to better understand the nuances of the legislative relationship between the Federation and the Provinces in their present structural form, we need to view it in a general historical context (tracing it back to the Government of India Act, 1935) and then pay particular attention to the effects of the 8th and the 17th amendments which necessitated the 18th amendment.

For example, the 8th amendment altered Article 48 to give the President sufficient power to act in his sole discretion and ensure that the validity of any action thus performed cannot be questioned on any ground whatsoever. This should be read with the insertion of article 58(2) (b) under the aegis of the same amendment which awarded the President discretionary powers to dissolve the assembly on frivolous grounds. This power was

removed by the 13th amendment but put right back in by President Pervez Musharraf by way of 17th amendment. In a restorative attempt, the 18th amendment took this power away from the President.

Alterations were made to Article 90 by the 8th amendment and all executive authority of the Federation was vested in the President (very similar to those exercised by the Governor General under the 1935 Act) who exercised these powers either directly or through his subordinate officers. The 18th amendment though has reversed the affect of this and the executive authority of the federation is now exercised by the Federal Government in the name of the President (the Federal Government is not limited to the President but extends to the PM and the Federal Ministers).

Discretionary powers were granted to the President (under the 8th Amendment) with respect to the appointment of the Prime Minister under Article 91. Furthermore, the Prime Minister held office “during the pleasure of the President”. The 18th Amendment though has made the post of the Prime Minister electable by the members of the National Assembly thereby lending more democratic accents to it. The 8th Amendment brought the appointment of the Governor (under Article 101) uncannily close to that under the 1935 Act. The 18th amendment, in an attempt to devolve some of the powers away from the center, has awarded advisory powers to the PM in this regard.

Post 8th amendment the governor had considerable powers with respect to the dissolution of the Provincial assembly (again similar to the 1935 Act) and under article 105 he could appoint a caretaker government in his discretion and give some direct powers to the President. The 18th Amendment, has taken away any/all powers of the President and the governor is required to act “on and in accordance” to the advice of the cabinet and the CM.

The aforementioned power of dissolution of assembly by the governor was concretized by the 8th amendment and later by the 17th amendment (article 112). This discretion has been curtailed though by the 18th Amendment. These should be read with Article 130 whereby powers of the governor with respect to the provincial cabinet have been further curtailed.

Article 270 A not only inserted the name of General Zia ul Haq in the constitution, but used the constitution as an engine of retrospective validation of all previous military orders and granted him to exercise this power in future as well. The 18th amendment omitted the general's name from the constitution. The 17th amendment was drafted on similar lines as the 8th Amendment—to expand the powers of President Musharraf. For example it inserted two extra clauses in Article 41 which described the powers of the President and deemed him to be elected if a referendum were passed in his favor. The 18th amendment, taking cognizance of the undemocratic implication of this amendment omitted it from the constitution.

Constitution making for all new democracies invariably necessitates a set of fundamental concerns which include, but are not limited to, selection of an electoral process (plurality v. proportional representation) and the form of government (presidential v. parliamentary). While conceding that there is no standard structure that applies across the board, it has been generally observed that the decision, particularly in context of societies where multiple ethnic groups exist, is by and large made in favor of a combination of proportional representation and parliamentary system. In such societies developing power sharing mechanisms and retaining group autonomy become crucial issues. Lijphart perceptively observes; *“Power sharing denotes the participation of representatives of all significant communal groups in political decision making, especially at the executive level; group autonomy means that these groups have authority to run their own internal affairs, especially in the areas of education and culture”*.^{xiv} The rationale being that these so called “newer democracies” have inevitably had some form of a colonial past and constitution making is a cathartic exercise which naturally dictates an accommodation of all ethnic divergences lest the imperialistic tradition creeps back in with all its intransigencies and leads to a termination of democracy.^{xv}

In case of Pakistan, the colonial history mentioned above, left undeniable imprints on the constitutional, political and administrative architecture on the whole which manifested itself through a constant interference with the democratic machinery by the military, but more importantly, through the grammar of the 1956 and 1962 Constitutions. The current constitution, which was drafted in 1973, has too had a rather tumultuous past. Persistent praetorian overtures robbed the government/constitution of the initially intended

parliamentary form and lent it presidential characteristics, especially through the aegis of the 8th and the 17th Amendments.

It would be pertinent to note at this juncture that presidential form of governments, while being just as democratically inclined as their parliamentary counterparts, do have certain inherent problems that make them less attractive to and more importantly, impractical for, multicultural societies like Pakistan. These include “*frequent executive [and] legislative stalemates*”^{xvi} because all power vests in the centre, with the office of the President and “*the rigidity of presidential terms of office*”.^{xvii} Conversely, parliamentary forms of government have more potential for power sharing as they have a Cabinet which “*offers the optimal setting for forming a broad power-sharing executive*”^{xviii} and does not have presidential elections which introduce “*a strong element of zero sum game into democratic politics with rules that tend toward a ‘winner-take-all’ outcome*”.^{xix} A side advantage of such a structure is that minorities, but most importantly ethnic groups get a proportional share of the pie as opposed to being relegated to a voiceless periphery.

However the effect of the insertion of the 8th and the 17th Amendments was exactly to the contrary. Their inclusion in the constitution, and it would be safe to describe it as a “multifarious inclusion”, rendered it unable to strike the desired balance between the centre and federating units (the provinces) thereby necessitating the striking out of the mischief creating clauses through the process of a constitutional amendment (the 18th Amendment).

Summary Conclusion

The most conspicuous contribution of the 18th amendment towards restoration of the originally intended form of government is found in the alterations it made to the Articles 141 to 144 whereby the concurrent list has been abolished and as a consequence whereof the provinces now have autonomy to determine their own internal affairs. This includes matters like education, criminal laws etc. all of which, according to Lijphart, form the very essence of provincial autonomy. Additionally, under article 140 A, considerable powers have been devolved to the provinces with respect to Local Governments, which

too has increased their level of autonomy. In an attempt to devolve powers away from the centre, the provinces have also been restored ownership of their own resources thereby not only adding to their financial self sufficiency but also augmenting their provincial autonomy.

The 18th amendment is not only responsible for reducing the Provinces' dependence on the Centre, but has also been instrumental in creating an environment which is conducive to Power sharing, the other fundamental tenet of constitution making. For instance, it has galvanized the Council of Common Interests into action (Article 153 to be read with articles 154 to 156). This particular measure will have a two fold effect. It will not only endorse parity of provinces with respect to issues that the federation still retains (through the Federal Legislative List) but it puts all provinces on equal footing irrespective of their geographical, economic and other disproportionalities. This concerted effort at consensus building bears testimony to the fact that in heterogeneous societies all communal groups need to be represented equally.

Power sharing is further facilitated by the 18th Amendment through the aegis of the National Finance Commission (NFC) award which has rearranged the fiscal structure of distribution of financial resources among the provinces by the federal government on annual basis. This has not only assuaged previous grievances pertaining to certain provinces usurping the lion's share to the detriment of others but has increased the sense of ownership of the smaller provinces in addition to promoting a consensus of power sharing.

In addition to the aforementioned specific examples, the general tenor of the 18th amendment is to ameliorate the power retentive effects of the previous amendments and to diminish, to every extent possible, the feeling of distrust that the provinces had been harboring for each other in absence of any form of power sharing and autonomy from the centre. This is obvious from the fact that the Chief Ministers of all the provinces have been granted consultative powers with respect to any decision that is made by the center pertaining to their respective provinces.

A distinguishing feature of post colonial states and societies is best characterized as a conglomerate of military and bureaucratic apparatuses which are not only able to

assume a dominant role at the centre, but owing to a powerful historical tradition (as analyzed in historical overview) are able to mediate with the political classes as well. Pakistan is no exception, though its case has been exceptional in the sense that despite displaying a consistency with post colonial institutional practices, the military has invariably adopted a more overtly disruptive role with respect to the democratic and electoral processes as opposed to the civil services. The civil society, on the other hand, have consistently displayed a rather vigorous preference for a “democratic parliamentary system and through popular mass movements demonstrated disapproval of military dictatorships”.^{xx} It must be taken into cognizance that this situation is not Pakistan-centric; political systems of a number of developing countries have been observed to exhibit strong democratic aspirations, yet are saddled with a deficit in so far as the rule of law is concerned due to the fragility of pro democratic groups and the political parties.^{xxi} However, this popular aspiration for democracy, coupled with several acquisitions of power by democratically elected governments, has not been able to achieve the requisite concretization it should have by now, primarily due to ineptitude of the elected political leadership, thus mismanagement, politicized bureaucracy, corruption and disrespect for rule of law and merit has deepened crisis of governance in Pakistan. The legal and political framework that the 18th Amendment offers for re-defining the federation-province relations augurs well for building the capacities of provincial bureaucracies and improving delivery of services and taking ownership of decision making. The 18th Amendment is step in the right direction to develop mechanisms for not only power-sharing but also building blocks for democratic governance, ensuring its success depends upon concerted action and partnership among political parties, bureaucracy and civil society.

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