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A Critically Analysis of Distribution of Powers between Centre and Provinces under the 18th Amendment of Constitution of 1973

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Abstract

This article explores the constitutional evolution throughout history that culminated in the ratification The 18th Amendment of Pakistan was enacted in April 2010. The objective of the study is to provide a clear understanding of the development of the Constitution, elaborate on the features of the 18th Amendment, and analyse the distribution of power between the federal government and the provinces following the implementation of the amendment. The 18th Amendment aimed to decentralize power by revaluating the relationship between the Parliament and the court, granting more authority to provincial governments, and restoring the parliamentary nature of the Constitution. The historical background section sheds light on Pakistani federalism, following its origins from the 1935 Government of India Act to the 1956 and 1962 constitutions. It draws attention to the effects of military operations as well as the centralising elements of these constitutions. The 18th and 17th Amendments, in particular, caused distortions to the 1973 Constitution, which established a federal parliamentary governance framework.

Keywords

Power allocation, devolution, Pakistan's constitutional past, and the 18th Amendment

Research Objectives

- To elucidate the evolution of the constitution historically leading up to the 18th amendment.
- To go into further detail on the provisions of the 18th Amendment to the Pakistani Constitution.
- To look into how the 18th Amendment affected the division of authority between the federal government and the provinces.

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Introduction

It is the contention of Levinson (1995) that the modifying provision of a constitution is considered to be the most essential component of the document. Through the introduction of a number of amendments, the Constitution is changed into a living text that is able to adapt and develop in order to reflect the prevalent popular emotions on major issues. The 18th change to the Constitution of Pakistan, which was officially ratified in April of 2010, might be considered an example of a historic change that attempted to disperse power in significant ways. In the beginning, it was successful in restoring the constitutional nature of the Constitution by, among other things, overturning some significant alterations that had been made by military authorities addressing critical topics such as the power of the President. Furthermore, it was proposed that Parliament should conduct comprehensive investigation and review of the nomination of justices to the Supreme Court and other judicial organizations, which would result in a major change in the dynamic that exists between Parliament and the judiciary. In addition to this, it altered the Federal Legislative List and eliminated the Concurrent Legislative List in the Constitution, which resulted in the expansion of the authority that provincial governments have over some essential functions.

As a result of the decentralization of authority and responsibility, a number of different institutional players were able to reevaluate their positions in an environment that was adversarial. Legislation has also been altered, new institutional structures have been built, policies and programs have been developed, and the capacity of provincial governments to implement their newly acquired obligations has been improved. Because of this, it is vital to conduct a thorough investigation of the Amendment. In addition, the federal bureaucracy has been secretly and openly opposing the approval of the Amendment, which has impeded the process of putting it into effect. Within this bureaucracy, there is frequently a strong resistance to any transfer of authority or allocation of resources. A number of the responsibilities that were eliminated from the federal ministries were transferred to other federal ministries, rather than being distributed to the provinces as the Amendment had intended those responsibilities to be. It is vital to conduct a detailed examination of the manner in which these responsibilities are allocated not only horizontally but also vertically in order to have a

complete understanding of the nature and extent of the power transfer that is the outcome of the Amendment.
Providing a comprehensive study of the 18th Amendment as a strategic maneuver to shift authority from unelected to elected entities and from the central government to the regional governments, this article offers a comprehensive explanation of the amendment. It is composed of six different parts. A concise summary of the historical development of Pakistani federalism is provided in the latter section of this article. The purpose of this article is to offer an overview of the essential features of Pakistan's federal-provincial relations, as defined in the 1935 Act, the 1956 Constitution, and the 1962 Constitution. A brief overview of the 18th Amendment is provided in the third part of the document. The work offers a condensed overview of a variety of topics, including the limited authority of the President in a number of areas, the changed system for selecting judges, legislation related to political parties, the enlargement of fundamental rights, and the installation of interim governments, amongst other topics. In the fourth section, extensive information is presented concerning the regulations that have been implemented by the National Finance Commission (NFC), the removal of the Concurrent List, and the amendments that have been made to the Federal List. In addition to this, it investigates the increased responsibilities that the Council of Common Interests (CCI) is responsible for. In the fifth section of the paper, the difficulties that are associated with the implementation of the plan are investigated. In order to determine the extent to which the Federal Government has delegated certain tasks to Provincial Governments in the wake of the abolition of these ministries as a result of the Amendment, three sectors—education, health, and agriculture—have been selected for the purpose of analysis. A conclusion is included in the sixth section of the article.

Historical Background

When the state of Pakistan was founded in 1947, the Government of India Act of 1935 was approved as the interim constitution for the state (Rizvi 2002). However, several modifications were made to the existing constitution. During the first nine years of Pakistan's existence, the Act continued to be in effect, during which time it delegated distinct legislative powers to the federation as well as its component parts, which were known as governors' provinces. A basis for federal government was also built as a result of this. The Federal List, the Concurrent List, and the Provincial List were the three pieces of legislative lists that were given by Sections 99 and 100. It is the responsibility of both the federal government and the provincial governments to exert legislative authority over the issues that are considered to be concurrent. Fifty-nine items were included on the Federal List, thirty-six things were included on the Concurrent List, and fifty-four items were included on the Provincial List. It was also stipulated in the Act how the federation and its component nations would divide up the proceeds from taxes. With the purpose of resolving any issues that may arise between the federation and the provinces or inside the provinces themselves, the Intra-Provincial Council was also established under Section 135 of the Constitution. Following a period of nine years that was marked by political talks and deliberations, the Constituent Assembly chose to establish a new constitution in the year 1956. Article 1 of the Constitution of Pakistan, which was ratified in 1956, called for the establishment of a federal parliamentary system of law. On the other hand, Article 44 stipulated that there would be a total of 300 seats in the parliament, while Article 43 constituted a unicameral parliament. In addition to guaranteeing that East and West Pakistan each had an equal number of members in the Government of Pakistan, the Constitution acknowledged the existence of a single entity and designated ten seats in the Parliament for women. The Federal List, which consisted of thirty items, the Concurrent List, which consisted of nineteen things, and the Provincial List, which consisted of ninety-three items, were the four legislative lists that were established in accordance with Article 106. (Rabbani 2011) notes that the bulk of critical topics were included in either the Federal List or the Concurrent List. This is according to Rabbani (2011). A National Economic Council was established in accordance with the Constitution. Composed of three ministers from each province and four ministers from the federal government, the council was established. Additionally, an NFC was formed in order to give suggestions regarding the most effective distribution of resources between the federation and the provinces throughout the process of resource allocation. On the other hand, the recommendations made by the Commission were not legally obligatory, so that the federal government was not required to follow them.

Within the Constitution of 1956, there were two major centralizing components, despite the fact that it was a federal and democratic document. The Federal Government is granted residual powers under Article 109, which means that it is responsible for enacting laws on matters that are not included in any of the three categories. As an additional point of interest, Article 92 provides that the governor's proposal is required prior to the filing of a legislation or the alteration of an existing law that pertains to a subject that is handled by a money bill or one that would demand the distribution of provincial funds. In fact, the province's autonomy to freely make laws was restricted as a result of the nomination of the governor by the federal government. To add insult to injury, the Act of 1935 did not make any reference to the Inter-Parliament Council as a distinct organization for the purpose of conflict resolution. The Constitution stipulates that the Chief Justice of Pakistan is obligated to act as a mediator in the event that a dispute arises between the federation and the provinces or between two provinces. The Constitution of 1956 was only in effect for a brief period of time because of the imposition of martial law in October of 1958. A new constitution was announced by Ayub Khan in March of 1962. This new constitution was a haphazard blend of the Constitution of 1956 and the Act of 1935. The word "federal" was removed from Pakistan's name since it was included in Article 1 of the new Constitution. Furthermore, Article 70 established two distinct assemblies to represent East Pakistan and West Pakistan, delegating equal authority to both of these chambers in all matters pertaining to the federal government. In accordance with the Constitution, a federal assembly was constituted, which consisted of 156 members and was split evenly between the two provinces. There were six seats reserved just for females. Only forty-three particular subjects, which were enumerated in the Third Schedule, were permitted for the Central Government to create legislation under the Constitution of 1962. Through Article 132, the provinces were given the authority to exercise the remaining authorities. There were two particular provisions in the Constitution that effectively limited the power of the provinces, despite the fact that the delegation of residual functions to the provinces was a significant step toward decentralizing authority and accountability. The Central Legislature is conferred with the authority to enact legislation concerning planning and coordination, economic and financial stability, and national security, all of

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which are in Pakistan's best interests. This authority is granted to the Central Legislature by Article 131 of the Constitution. As a result of the ambiguous nature of this clause, the Central Government was granted the authority to exercise control over everything that was not represented on the Central List (Rana 2020). In addition, Article 74 stipulates that the governor, who is appointed by the federal government, possesses the authority to dissolve the Provincial Assembly with the consent of the President in the event that the Provincial Assembly is in disagreement with the governor's decision, provided that the National Assembly is in agreement with the governor's decision. The Central Government decided to take on the role of arbitrator with regard to the disagreement rather than resorting to a neutral forum or one that includes representatives from both parties. Moreover, while putting up nominations for the National Economic Council, the President did not include a particular clause that mandated the inclusion of province representatives.
The Constitution of 1962 was rapidly overturned by the newly founded military regime in the year 1968. The National Assembly of Pakistan began the process of drafting a new constitution for Pakistan after the elections that took place in 1971. The constitution was scheduled to go into effect in 1972. Pakistan is a federal republic, as stated in both the Preamble and Article 1 of the Interim Constitution of 1972, which was largely approved in April 1973. This highlights the fact that the state is based on a federal structure. The Senate, the National Assembly, and provincial legislatures for each province together make up the bicameral Parliament that was established. Administrations at the federal, provincial, and local levels were supposed to make up the three levels of governance. A Federal Legislative List and a Concurrent Legislative List were both included in the Fourth Schedule of the Constitution by the Constitution. First, there were fifty-nine items on the Federal List, and then there were eight items on the second part of the list. On the other hand, all other matters were considered to be under the competence of the provinces, whereas the Concurrent List included forty-seven different issues. On any subject that is not covered on the Federal List, provincial legislation is applicable. Article 143, on the other hand, states that in the event of a disagreement on a topic that is included on the Concurrent List, federal law was supposed to have a higher authority than provincial law. Additionally, Article 144 of

the Constitution of the United States of America provides the Federal Government the ability to enact laws, even on issues that are not important to the scope of its influence. The administrative ties that existed between the federation and the provinces were addressed in Part V of Canada's Constitution. It is important to highlight that the most significant aspect of this collaboration was the Collaborative Decision-Making (CCI) system, which made it possible for the federation and the provinces to make decisions together on certain issues. The prime minister was responsible for selecting the delegates from the federal government, and the composition of the group included the chief ministers of the provinces respectively. With the exception of electricity, which is the only item on the Concurrent List, the Council was tasked with the job of creating policies and resolving disputes on all of the issues that are mentioned in Part II of the Federal Legislative List. In earlier constitutions, the federation had been granted sole legislative power over issues that were included on the Federal List. This constituted a substantial shift from those constitutions. The topic will be sent to the joint session of Parliament for a final judgment in the event that the Council is unable to come to a conclusion or if the Federal or Provincial Government is unhappy with a decision passed by the Council. For the aim of making decisions about significant economic issues, the President has formed a National Economic Council, which includes the Prime Minister and other officials who have been particularly chosen. Nominees of the president and the ministers of finance for both the federal government and the province governments make up the National Finance Council (NFC), which was established in accordance with Article 160. The National Finance Commission was entrusted with the responsibility of developing recommendations for the division of financial resources between the federal government and the province governments, including the provision of financial aid to provincial governments and the management of borrowing capacity between the federal government and the provincial governments.

Both military and democratically elected regimes have made amendments to the Constitution of 1973 during the course of its existence. Notable in their own right are the Eighth and Seventeenth Amendments, which were proposed by General Zia and General Musharraf, respectively, during their respective regimes. Both of these things warped the constitutional structure, which is parliamentary and federal in character. This was mainly rendered non-existent by the 18th Amendment.

Overview of the 18th Constitutional Amendment

On April 18, 2010, the Senate went ahead and gave its approval. This amendment provides for the formation of fifteen ministries that fall under provincial jurisdiction rather than federal jurisdiction, eliminates the capacity to declare a state of emergency, and redefines the function of the president as a symbolic figurehead by removing the authority to declare a state of emergency. The foundation for this alteration was laid in 2002 with the establishment of the local bodies system; however, this modification did not become operational until the year 2010. The aforementioned ministries, on the other hand, were genuinely under the supervision of the central government, which led to major inequalities in the level of human development across the provinces, notably in Baluchistan. The 18th Amendment, which was generally regarded as a real resurrection of the constitution that was ratified in 1973, was enthusiastically adopted by the general population. During that time period, it was believed that the bulk of Pakistan's problems will be handled by the progress of the country and the people who lived there. One of the things that was anticipated was that there would be a fair division of power across the provinces, which would ultimately result in a more consistent improvement overall. Pakistan's bicameral legislature, which was established by the constitution of 1973, has frequently been confronted with difficulties over the distribution of powers within the legislature. Consequently, the debate on federalism is not a new phenomenon in the country at this point in time. The primary problem that is addressed by this amendment is the disruption of the power structures that have grown within the framework of democratic government. The amendment's primary objective is to construct an efficient system of local governance (Rana 2020). This represented a momentous milestone in the political history of Pakistan, as it was the first time that a president voluntarily resigned their authority and passed it to the leadership of the legislature and the position of prime minister. The ability of the President to unilaterally dissolve Parliament is going to be eliminated as a result of this act. In order to achieve this goal, the semi-presidential style of administration that Pakistan currently employs would be converted into a parliamentary republic. In acknowledgment of the dominant ethnic population in the area, the North-West Frontier Province was renamed Khyber Pakhtunkhwa. This action was taken in order to give the province a more appropriate name. The purpose of these changes was to distribute the authority of the presidency and to reduce the political animosity that existed between different areas. There were two significant changes that were made to the

Constitution: first, an amendment was made to Article 6 in an effort to prevent future military coups, and second, Article 58(2b) was substituted with the provision that dissolved the National Assembly (Hamid 2010).

- In the unlikely event that the prime minister was the subject of a vote of no confidence, the President maintained the authority to dissolve the National Assembly.
- The prime minister would appoint governors, who would be appointed by the president based on the prime minister's recommendation. The cabinet's overall strength was set at 11% of the parliament's total membership. Provinces were now legally obligated to create local government systems, devolve political elections, assume administrative and financial responsibility, and have the power to elect representatives.
- The prime minister was to chair the Council of Common Interests, which would have three federal cabinet members and chief ministers as members.
- An addition to Article 157 mandating that before establishing hydroelectric power plants in provinces, the federal government obtain permission from the provincial governments
- The Prime Minister was given the authority to submit the names of three Council of Common Interests nominees to a parliamentary committee for confirmation after consulting with the head of the opposition.
- Article 243 will be replaced, giving the federal government—and eventually the President—control and command over the military forces of Pakistan.
- Article 175(a) will be inserted, governing the appointment of judges to the Supreme, High, and Federal Shariah Courts.
- The President now has the power to name the head of the army, navy, and air staff as chairman of the Joint Chiefs of Staff.
- The North West Frontier Province was renamed "Khyber Pakhtunkhwa."
- The names of the provinces "Baluchistan" and "Sind" were changed to "Balochistan" and "Sindh" under an amendment to clause 1.
- The State is required by the Constitution to provide free and compulsory education to all citizens of Pakistan between the ages of five and sixteen.
- Those who have obtained foreign citizenship are prohibited from running for office in national elections for parliament. All elections in Pakistan, except those for prime minister and chief minister, must be conducted by secret ballot. The concurrent legislative list in the 4^{th} Schedule was completely removed, and different ministries and powers were divided between the federal and provincial governments, guaranteeing a clear separation of powers.

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Distribution of Powers and Authority

The primary emphasis of the 18th Amendment was to address federal-provincial relations and enhance the status of the provinces within the Pakistani federation. The Amendment granted provinces greater autonomy in governing the federation, while also allocating them specific duties and making revisions to different procedures. Here is a concise summary of these clauses.

Changes to the Federal Legislative List

The revisions that were made to the Fourth Schedule, which included both the Federal Legislative List and the Concurrent Legislative List, were without a doubt the most significant one. The Federal List is divided into two distinct categories. In Part I, there were fifty-nine different items, however in Part II, there were just eight different things. The federation and the provinces work together to determine which issues will be included in Part II. The CCI acts as a facilitator for this process. Regarding the other hand, the Federal Government is solely responsible for the matters that are included in Part I (Rana 2020). Following are some of the ways in which the Federal List was altered as a result of the 18th Amendment:

There are four things that have been moved from the first part of the list to the second part. The establishment of important ports, the execution of a census, the extension of the authority and jurisdiction of a provincial police force to adjacent provinces, the implementation of national planning, and the facilitation of economic coordination were some of the measures that were undertaken.

A total of four new pieces were incorporated into the extension of Part II. The subjects that were discussed included collaboration between different parliamentary bodies, the monitoring and management of public debt, criteria in research, scientific, and technical establishments, as well as higher education institutions, and all regulatory authorities that were formed by federal legislation.

Electricity, as well as the legal, medical, and other professions, were moved from the Concurrent List to Part II of the Federal List due to the transfer of these professions. The only alteration that was made was the relocation of boilers from the Concurrent List to Part I of the Federal List.

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State lotteries, property succession duties, capital gains, estate duty pertaining to the property, and general sales tax on services are items that are no longer included on the Federal List Part I.

Consequently, the amended Federal List is presented in the following manner: Part I consists of eleven articles, whereas Part II consists of eighteen items. It was not the provinces who were responsible for the growth of Part II of the List; rather, it was the elimination of the Concurrent List and the reduction of Part I.

On account of the fact that the federation and the provinces have shared responsibility for Part II of the Federal List, the inclusion of topics in this Part indicates an enhanced role for the provinces, even in areas that are theoretically under the competence of the federal government.

There are topics that are included in Part I of the updated Federal List that have a scope that is more expansive than that of particular provinces. Examples of areas under federal jurisdiction in Pakistan include defense, the State Bank of Pakistan, national highways, currency and foreign exchange, nuclear energy, military operations, naval and air force operations, local self-government in cantonment areas, external affairs, implementation of treaties and agreements, nationality, citizenship, and naturalization, migration to and from Pakistan, federal surveys, federal institutions such as the Federal Ombudsman and the Federal Public Service Commission, various institutions in the federal territory, and federal taxation.

With the exception of federal institutions, institutions located within the federal region, and taxation by the federal government, all of the remaining items in Part I of the Federal List essentially apply to the provinces. It is possible to argue for the transfer of any number of these concerns to Part II of the List, which would result in the provinces being granted a greater degree of responsibility over these issues. It would appear that cantonment areas, posts, and telegraph, in addition to local self-government, are the key possibilities for providing more decentralization of authority.

Part II of the updated Federal List continues to include issues that are of major importance. Railroads, natural gas and mineral oil resources, industrial development, federal corporations, projects and industries, major ports, economic coordination, all federally established regulatory authorities, electricity, and other professions besides the legal, medical, and other professions are some of the areas that fall under the jurisdiction of the federal government. Additionally, cooperation between the several parliaments is also involved.

Abolition of the Concurrent Legislative List

The Concurrent List, which may be found inside the Fourth Schedule, is comprised of 47 topics on which the federal government and provincial governments have the ability to make laws. There are several political parties that have regularly pushed for the elimination of this List and the devolution of all topics that are specified in it to the provinces. Nationalist parties that represent smaller provinces have been particularly vocal in their push for this. In addition, there was a common agreement that the authors of the Constitution that was written in 1973 had previously verbally agreed to do away with the List after a period of ten years. This assertion, however, is not supported by any documented agreement, regardless of whether it was official or informal (Rabbani 2011). The Concurrent List was eliminated as a result of the 18th Amendment. Additionally, one topic was moved to Part I of the Federal List, while two items were moved to Part II of the Federal List. This was previously mentioned. The remaining 44 concerns were swiftly forwarded to the provinces after the end of other negotiations that were taking place.

The exclusive provincial realm encompasses a wide range of topics including criminal law, criminal procedure, civil procedure, evidence and oath, marriage and divorce, adoption, bankruptcy, arbitration, contracts, property transfer, preventive detention, weapons and explosives, opium, drugs and medicines, poisons and dangerous drugs, mental illness, environmental illness, pollution, trade unions, population planning, and social welfare, labor welfare, shipping and navigation on inland waterways, newspapers, books, and printing presses, property owned by evacuees, Islamic education, zakat, tourism, and awqaf. This is a prime example of the expanded jurisdiction and duty that the province possesses (Rana 2020).

It was a representation of two different ideas to the provinces. In the beginning, they were required to approve laws on these topics, even if it meant adopting the federal statute with the necessary modifications. Since the beginning of time, the federal government has been the primary authority that is accountable for the formulation of

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laws, policies, and regulations that are applicable to the constituent provinces. In spite of this, the provinces were required to adopt their own legislation, rules, and policies since it was determined that these topics were not appropriate for the business of the central government. Article 270AA, which was created by the Amendment, allows the laws, rules, and notices that are now in effect to continue to be in effect until they are replaced. This is done in order to prevent a situation in which there is no legal framework once the Concurrent List has been eliminated. On top of that, it was necessary for the provinces to cultivate the capability to successfully carry out these newly allocated obligations. The majority of the time, the establishment of federal institutional infrastructure was initiated as a consequence of federal law. In order to fulfill this requirement, the infrastructure in question must either be constructed in the provinces or maintained within the federation under a new name.
The Concurrent List was a supplemental list that was included in the Fourth Schedule. It included 47 different subjects and gave the federal government and provincial governments the ability to make laws on specific issues with regard to those subjects. There are several political parties that have regularly pushed for the elimination of this List and the devolution of all topics that are specified in it to the provinces. Nationalist parties that represent smaller provinces have been particularly vocal in their push for this. In addition, there was a common agreement that the people who drafted the Constitution in 1973 had verbally agreed to do away with the List once ten years had passed. On the other hand, there was no written agreement, either official or informal, that confirmed this reality (Rabbani 2011). The Concurrent List was eliminated as a result of the 18th Amendment. Additionally, one topic was moved to Part I of the Federal List, while two items were moved to Part II of the Federal List. This was previously mentioned. In a timely manner, the remaining 44 issues were passed to the provinces as residual concerns.
The exclusive provincial realm encompasses a wide range of topics including criminal law, criminal procedure, civil procedure, evidence and oath, marriage and divorce, adoption, bankruptcy, arbitration, contracts, property transfer, preventive detention, weapons and explosives, opium, drugs and medicines, poisons and dangerous drugs, mental illness, environmental illness, pollution, trade unions, population planning, and

social welfare, labor welfare, shipping and navigation on inland waterways, newspapers, books, and printing presses, property owned by evacuees, Islamic education, zakat, tourism, and awqaf. This is a prime example of the expanded jurisdiction and duty that the province possesses (Rana 2020).

For the provinces, it was symbolic of two different things. In the beginning, they were compelled to approve laws on these topics, even if it meant accepting the federal statute with amendments that were necessary. Throughout the course of history, the primary responsibility for the creation of law, policy, and regulation that pertains to the provinces has been maintained by the federal government. Despite this, the provinces were required to adopt their own laws, rules, and policies since it was determined that these topics were not appropriate for the federal government to deal with. Article 270AA, which was created by the Amendment, allows the laws, rules, and notices that are now in effect to continue to be in effect until they are replaced. This is done in order to prevent a situation in which there is no legal framework once the Concurrent List has been eliminated. On top of that, it was necessary for the provinces to cultivate the capability to successfully carry out these newly allocated obligations. The majority of the time, the establishment of federal institutional infrastructure was initiated as a consequence of federal law. In order to fulfill this requirement, the infrastructure in question must either be constructed in the provinces or maintained within the federation under a new name.

Strengthening Provinces Vis-à-vis the Federation

The province's participation in government was improved via the use of a number of different measures. For instance, Article 157 was amended to provide that the Federal Government must first consult with the relevant Provincial Governments before deciding whether or not to develop hydroelectric generating plants inside the province. In addition, any disagreement over this topic can now be brought before the CCI for the purpose of resolution purposes. Furthermore, an adjustment was made to Article 147, which stipulates that a Provincial Government must obtain consent from the Provincial Assembly within sixty days after transferring its duties to the Federal Government. This amendment was made in order to ensure constitutionality. Articles 153 and 154, which dealt with the composition of the Council and its tasks, were amended in order to strengthen the CCI. This was done in order to ensure that this attitude is maintained. In the past, the Council was made up of four members, which included the chief ministers of each province as well as the federal government. The session was presided over by a Federal Minister who was either a member of the Council or the Prime Minister, provided that the Prime Minister was also a member of the Council. In addition to being a member of the Amendment, the Prime Minister took on the function of chairman. As an additional point of interest, it was obligatory for the Federal Government to form the Council within a period of thirty days following the Prime Minister's assumption of office. The Prime Minister, the chief ministers of the provinces, four members selected by the Prime Minister, and four members designated by the chief ministers (one by each Chief Minister) were the individuals that made up the National Economic Council. The Prime Minister was supposed to be in charge of the Council, which was supposed to be responsible for analyzing the overall economic status of the country and offering recommendations to the federal and provincial governments on matters pertaining to financial, economic, and social policy. The 18th Amendment strengthened the Senate's position and granted it additional control over a broad variety of issues, which resulted in a significant rise in the number of powers and influences that the Senate possessed. The strengthening of the Senate, which acted as a representative body for provincial legislatures inside the federal Parliament, resulted in a natural growth in the authority that was held by the provinces. By way of illustration, Article 91(4) stipulated that it was the responsibility of the National Assembly to ensure that the Cabinet was held collectively accountable from everyone. It was decided to modify this article in order to guarantee that the National Assembly and the Senate have equal responsibility for the Cabinet. To a similar extent, the President used to have the authority to enact an ordinance even when Senate hearings were in process. In a recent amendment to Article 89, it was made clear that the presentation of an ordinance during a session of either House of Parliament was expressly banned. Rather than going through the process of establishing an ordinance, it appeared more reasonable to swiftly introduce a bill during the current session of the body, given that legislation may be begun in either body. Both the Senate and the legislative committee that was responsible for adopting the proposals made by the Judicial Commission for the appointment of judges had equal representation from the Senate. In order to fulfill their obligations, the opposition and the Treasury were needed to designate two representatives from each House.

There were a few particular instances that were listed in the Constitution of 1973 that were expected to involve the Senate being consulted. On the other hand, rather of consulting the Senate in a separate session, representatives from both houses of Parliament met together to debate the topic. Because of this, any dissenting viewpoints from the Senate were effectively

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muted because they were outnumbered by the majority in the National Assembly to a significant degree. There were a number of modifications that were brought about by the 18th Amendment, which mandated that particular subjects be discussed in a separate session between the two houses of Parliament. During an emergency, for instance, any directive issued under Article 233 that temporarily restricts a basic right must be presented to both legislative bodies for endorsement within ten days of the president declaring the emergency. This is a requirement that must be met. With the insertion of a new provision to Article 156, the National Economic Council was given the ability to exercise control over both houses of the Parliament. This is similar to the previous example. Additionally, modifications were made to Articles 29, 153, and 171 in order to demand that both Houses of Parliament, as opposed to only the National Assembly, be furnished with a variety of essential reports. There are three reports that fall under this category: the Report on the Principles of Policy, the Report of the Council of Common Interests, and the Report of the Auditor General of Pakistan (Rana 2020). The province's participation in government was improved via the use of a number of different measures. For instance, Article 157 was amended to provide that the Federal Government must first consult with the relevant Provincial Governments before deciding whether or not to develop hydroelectric generating plants inside the province. Additionally, any viewpoints that are in dispute with one another about this topic can now be brought before the CCI for settlement. Furthermore, an adjustment was made to Article 147, which stipulates that a Provincial Government must obtain consent from the Provincial Assembly within sixty days after transferring its duties to the Federal Government. This amendment was made in order to ensure constitutionality. Articles 153 and 154, which focused on the composition of the Council and its tasks, were modified in order to strengthen the CCI so that it would be in line with this viewpoint. In the past, the Council was made up of four members, which included the chief ministers of each province as well as the federal government. The Prime Minister, if he was a member of the Council, or a Federal Minister who was a member of the Council presided over the meeting while it was conducted. In addition to being a member of the Amendment, the Prime Minister took on the function of chairman. As an additional point of interest, it was obligatory for the Federal Government to form the Council within a period of thirty days following the Prime Minister's assumption of office.

The National Economic Council was supposed to be comprised of the Prime Minister, the chief ministers of the provinces, four members chosen by the Prime Minister, and five members proposed by the chief ministers, with each chief minister being responsible for one of the nominations. The Prime Minister was supposed to be in charge of the Council, which was supposed to be responsible for analyzing the overall economic status of the country and offering recommendations to the federal and provincial governments on matters pertaining to financial, economic, and social policy.

In addition to strengthening the Senate and providing it with increased jurisdiction over a variety of subjects, the 18th Amendment made a substantial contribution at the time. With the Senate serving as a representative of provincial legislatures in the federal Parliament, the strengthening of the Senate inevitably led to an increase in the power of the provinces. By way of illustration, Article 91(4) stipulated that it was the responsibility of the National Assembly to ensure that the Cabinet was held collectively accountable from everyone. In order to ensure that both the National Assembly and the Senate are held to the same level of accountability for the Cabinet, this article was changed. To a similar extent, the President used to have the authority to enact an ordinance even when Senate hearings were in process. In a recent amendment to Article 89, it was made clear that the presentation of an ordinance during a session of either House of Parliament was expressly banned. It was a prudent decision to immediately file a bill in the House of Representatives, which was presently in session, because legislation could be initiated in either house, as opposed to going through the procedure of filing an ordinance. Both the Senate and the legislative committee that was responsible for adopting the proposals made by the Judicial Commission for the appointment of judges had equal representation from the Senate. In order to fulfill their obligations, the opposition and the Treasury were needed to designate two representatives from each House.

Even in a rare occasions when the Constitution of 1973 allowed for the Senate to be consulted, the matter was brought up before a joint session of Parliament, so bringing a dissident position from the Senate under the weight of the majority opinion of the National Assembly. The 18th Amendment included a number of revisions that mandated that certain topics be discussed separately by the two Houses of Parliament. These amendments were used to modify the Constitution. For instance, every order that was issued in accordance with Article 233 and that suspended a fundamental right during an emergency was required to be brought to each House for approval within ten days of the presidential proclamation of emergency. In a similar manner, the National Economic Council was granted jurisdiction over both Houses of Parliament by the addition of a new provision to Article 156. Additional amendments were made to Articles 29, 153, and 171 in order to mandate that both Houses, and not just the National Assembly, be provided with a number of important reports. These reports include the Report on the Principles of Policy, the Report of the Council of Common Interests, and the Report of the Auditor General of Pakistan (Rana 2020).

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Enhanced Share in National Resources

The 18th Amendment made a number of major contributions, one of which was the recognition of the provinces as legal beneficiaries of their natural resources via the assistance of the central government. The Federal Government's claim to properties, precious minerals, and other assets that are located under the ocean bottom outside of Pakistan's territorial seas or on the continental shelf was curtailed as a result of an amendment to Article 172. This resulted in the provinces of Pakistan being granted the ability to explore, develop, and make use of any lands, minerals, and other resources that were situated within Pakistan's geographical regions. Furthermore, the federal government and provincial governments were to jointly and equally possess any discoveries of minerals, oil, and natural gas within a province or in territorial seas next to a province. This was to be done in collaboration with one another. As an important organization that controlled the distribution of resources between the federal government and the provincial governments, the National Federative Council (NFC) was founded under the Constitution of 1973. The NFC contained delegates from each of the provinces. Article 160[3A] of the 18th Amendment, which states that a province's part in an NFC award will not be smaller than its component in the award that came before it, helped to enhance the province's position with regard to the NFC. In addition, it stipulated that the National Financial Commission (NFC) must provide reports to both the Houses of Parliament and the provincial assemblies.

Rather than the federal excise duty being deposited in the Federal Consolidated Fund, Article 161 was amended to include new language that stated that the provinces in which well heads were located would receive all net earnings from the federal excise duty on oil that was assessed at well heads and collected by the federal government. This was done in place of leaving the federal excise duty in the Federal Consolidated Fund. Previously, the province in issue was only entitled to collect the net revenues that were generated from the natural gas excise fees. Following the removal of the sales tax on services from the Federal List, the tax was subsequently transferred to the province level (Rana 2020).

Article 167 permitted provinces to raise loans and offer guarantees, subject to the supervision of the National Economic Council (in which provinces were represented). This satisfied a long-standing provincial demand to secure loans from local or foreign lenders using the Provincial Consolidated Fund as collateral.

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Conclusion

As a conclusion, the 18th Amendment to the Constitution of Pakistan, which was passed in order to improve relations between the federal government and the provinces, resulted in substantial changes to the system of power and authority allocation. One of the most significant changes that occurred in favor of provincial autonomy was the reevaluation and rearrangement of parliamentary lists, notably the modifications that were made to the Federal parliamentary List. In addition to providing the provinces with more power, the abolition of the Concurrent Legislative List granted them exclusive legislative jurisdiction over a wide variety of other topics. Several elements of the amendment made it clear that the provinces were being strengthened in relation to the federation. A commitment to a federal system that is more inclusive and balanced was demonstrated by the strengthening of the Council of Common Interests (CCI) and the National Economic Council, as well as by the function of the Senate being expanded. To ensure a more collaborative approach to government, the provinces were given additional opportunities to participate in the decision-making processes.

The 18th Amendment also recognized the provinces as legitimate stakeholders in the usage of natural resources, which was a significant step forward. A dedication to justice and equity was represented in the alteration of Article 172 as well as the modifications to the procedures for resource-sharing via the National Finance Commission (NFC). In order to provide the provinces with the ability to explore, develop, and benefit from resources that are located within their territorial borders, enhanced power over the provinces' natural resources was distributed to them. In addition, the amendment addressed financial matters, putting an emphasis on the increased proportion of national resources that the provinces contributed. In order to ensure that provinces were not only legal beneficiaries of their share but also active players in financial concerns, amendments were made to Articles 160, 161, and 167. These amendments highlighted the significance of provincial representation in the area of economic decision-making. In conclusion, the 18th Amendment was a significant factor in the transformation of Pakistan's constitutional environment, which resulted in the development of a federal system that was more accepting of collaboration and participation. The purpose of the amendment was to enhance the democratic fabric of the country and encourage a more equitable allocation of powers and duties. This was addressed by allowing provinces additional authority, assuring their participation in important institutions, and acknowledging their share in national resources.

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