

## **Fiscal Federalism and Constitutional Accountability: Lessons from Pakistan's 18<sup>th</sup> Amendment**

### **Ishfaq Ahmad**

PhD scholar, Lecturer, Department of Law, Bahaudin Zakariya University Multan, Pakistan (Vehari Campus) Email: [ishfaq.ahmad\\_vcamp@bzu.edu.pk](mailto:ishfaq.ahmad_vcamp@bzu.edu.pk)

### **Muhammad Faisal**

Lecture in Law, University of Okara, PhD Scholar Anglia Ruskin University United Kingdom Email: [muhammad.faisal@uo.edu.pk](mailto:muhammad.faisal@uo.edu.pk)

### **Muhammad Ahsan Iqbal Hashmi** (Corresponding Author)

PhD Scholar, University Gillani Law College, Bahaudin Zakariya University Multan, Pakistan Email: [ahsanhashmi@bzu.edu.pk](mailto:ahsanhashmi@bzu.edu.pk)

### **Abstract**

The Eighteenth Constitutional Amendment of 2010 has been one of the most significant changes in matters concerning the Pakistani constitution and fiscal history. The Amendment sought to reestablish the balance of fiscal autonomy predicted by the 1973 Constitution by abolishing the Concurrent Legislative List and devolving a large portion of powers to the provinces. It also aimed at boosting the inter-governmental level of coordination through the National Finance Commission (NFC) and the Council of Common Interests (CCI) to incorporate accountability to the federal system. However, even with this change in structure, the post-Amendment era has seen some long-standing challenges that include lack of administrative capacity, delays in fiscal grants, unequal provincial performance and institutional impunity.

This paper will discuss how fiscal federalism has changed through the seventeenth amendment of the constitution of Pakistan and following the 18<sup>th</sup> amendment, discussing how the constitutional reform has changed the way the fiscal distribution is done, governance and accountability. Using comparative lessons in India and other countries such as Canada and the United States, it claims that sustainable fiscal federalism needs institutionalized schemes to coordinate, be transparent and economical. The research study concludes that, although the 18th Amendment established the constitutional cumulative to have cooperative federalism, the success of the 18th Amendment in the long term is pegged on the maturity of institutions, political will and the long-term culture of constitutional trust.

**Keywords:** Fiscal Federalism, Constitutional Accountability, 18th Amendment, Devolution, National Finance Commission (NFC), Council of Common Interests (CCI), Pakistan, Comparative Federalism, Public Finance, Provincial Autonomy

### Introduction

This is because the constitutional accountability and fiscal autonomy of the federal system depend on how close the fiscal autonomy and constitutional accountability are to each other. This relationship was re-calibrated in Pakistan via the Eighteenth Constitutional Amendment Act, 2010, which has become an icon in the constitutional development in the country. The amendment was enacted in the middle of old-standing conflict between centralization and provincial autonomy and re-formulated the structure of the vertical and horizontal distribution of powers, changing the fiscal federalism architecture significantly.<sup>1</sup> It sought to reestablish the balance that was envisaged in Constitution of Pakistan, by giving more legislative and financial independence to provinces and at the same time requiring accountability by institutional checks including the Council of Common Interests (CCI) and the National Finance Commission (NFC).

In its classical meaning, fiscal federalism is the sharing of functions and financial interactions between governmental levels in a federation.<sup>2</sup> It makes sure that sub-national government possess sufficient fiscal resources to fulfil constitutionally mandated roles, but also reserves the powers needed by the federal government to guarantee national integrity and macro-economic stability.<sup>3</sup> The 18<sup>th</sup> Amendment aimed at accomplishing these ideals by abolishing the Concurrent Legislative List, through the devolution into seventeen federal ministries into provinces and the redefinition of Article 160 to come up with equitable financial power dispensation.<sup>4</sup> Not only did this redefine the fiscal landscape of Pakistan but also posed new questions of constitutional accountability how to make sure that there is responsible expenditure of devolved fiscal power without compromising the autonomy of the province.

Fiscal federalism in Pakistan is as such a phenomenon that goes beyond budgetary allocations; it is about constitutional ethics, intergovernmental trust and democratic participation. The developments since the amendment can be viewed as encouraging and continuing struggles: the provinces have varying capacities and delay in the granting of NFCs and the ineffective oversight systems.<sup>5</sup> The knowledge of these dynamics is crucial in determining whether the federal model in Pakistan has been developed into a fully participative fiscal federation or still crippled by the imbalance in structures and political rivalry.

In this light, the paper will discuss the transformations of 18<sup>th</sup> Amendment on the fiscal federalism of Pakistan and explore the processes of constitutional accountability

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<sup>1</sup> Rizwan Ullah Kokab, 'Eighteenth Amendment in the Constitution of Pakistan: Success and Controversies'.

<sup>2</sup> Richard Abel Musgrave and Richard A Musgrave, *The Theory of Public Finance: A Study in Public Economy*, vol 658 (McGraw-Hill New York 1959).

<sup>3</sup> Wallace E Oates, 'Fiscal Federalism' (1972) 1 New York.

<sup>4</sup> Shagufta Jabeen and Wasima Shehzad, 'The Constitution of Pakistan: A Textual Perspective Analysis' (2022) 8 Linguistics and Literature Review 47.

<sup>5</sup> Anwar Shah and others, 'Fiscal Federalism in Pakistan: Challenges and Opportunities' [1996] Washington, DC: South Asia Country Department, World Bank.

in the federalism and uses other federations as the comparative lessons. It uses a qualitative, normative approach aided by comparative constitutional and policies analysis.

### **Conceptual Framework of Fiscal Federalism and Constitutional Accountability**

The theoretical basis of fiscal federalism is at the border of political theory, constitutional design and public finance. Based on the writings of Richard Musgrave and Wallace Oates, the theory focuses on an effective allocation of fiscal roles among the various levels of government in order to maximize resources allocation, equity and macroeconomic stability.<sup>6</sup> The principle of federalism, developed by K. C. Wheare, stipulates that government at a specific level must be independent in its domain but must depend on one another towards achieving national goals.<sup>7</sup> Fiscal federalism in this case processes the economic aspect of federalism by making certain that financial powers are in line with legislative and administrative powers that are given to it by the constitution.

Fiscal federalism, in constitutional terms, insures the revenue decentralization of revenues and expenditure accountability, which involve providing clear demarcation of taxation powers, grants and transfers. National Finance Commission (NFC) in Pakistan and other similar institutions like Finance Commission or the Canadian Equalization Programs, are institutional mechanisms to realize this principle.<sup>8</sup> The rationalization occurring in fiscal decentralization is to ensure that expenditure authority is brought to local tastes, to enhance accountability and better service provision due to being closer to the electorate. However, such decentralization also brings about the issue of coordination and the risks of a fiscal imbalance that must be constitutionalized.

The concept of constitutional accountability is the complement of fiscal autonomy because it helps to make sure that the application of the public funds corresponds to the principles of transparency, responsibility and legality. It defines the institutional and procedural systems by which the sub national governments are held accountable by the constitution, federal bodies of oversight as well as finally, the citizens.<sup>9</sup> Accountability is not restricted only to financial audit but goes beyond it to constitutional intonance, policy consistency and acceptance of federal values. The relationship of accountability is therefore two-fold, i.e., vertical (between federal and provincial government) and horizontal (with another level of government, by means of parliament and judicial reviews).

In comparison, federations like Canada, India and the United States have developed perplexing structures to find a way of striking the right balance between autonomy

<sup>6</sup> Richard Abel Musgrave and Richard A Musgrave, *The Theory of Public Finance: A Study in Public Economy*, vol 658 (McGraw-Hill New York 1959).

<sup>7</sup> Michael B Stein, 'Federal Political Systems and Federal Societies' (1968) 20 *World Politics* 721.

<sup>8</sup> Wallace E Oates, 'Fiscal Federalism' (1972) 1 *New York*.

<sup>9</sup> Harald Bergsteiner, *Accountability Theory Meets Accountability Practice* (Emerald Group Publishing 2012).

and accountability. An example of equalization in Canada is that the fiscal transfers to maintain similar public services in other provinces are constitutionally guaranteed by ensuring the solidarity among provinces without usurping autonomy.<sup>10</sup> Every few years, the finance commissions of India review the financial requirements of states and give its quasi-federal system some flexibility. All these models make it clear to us that an effective fiscal federalism is not solely a distribution of resources in a fair manner but also a strong foundation on accountability which should be completed by the constitutional and institutional designs- something that Pakistan is still bargaining over once the 18<sup>th</sup> Amendment.

### **Fiscal Federalism under Pakistan's 1973 Constitution (Pre-18th Amendment)**

As first drafted, the Constitution of Pakistan took the form of a quasi-federal system, providing some provincial autonomy in a robust central system. The historical experience of change of the constitution of Pakistan especially with regard to secession of East Pakistan in 1971 and monopolization of fiscal powers by the past regimes was of heavy burden on the shape of the 1973 Constitution.<sup>11</sup> Although one principle in the document was the federal one in Article 1, the consolidation of power in the hands of the federation especially in the area of taxation, natural resources and inter-provincial trade also enabled the federation to have significant financial powers. The fiscal structure which ensues was that of asymmetry, with revenue centralization and decentralization of expenditure, that formed a long-term vertical fiscal imbalance.

### **Centralized Fiscal Powers and the Role of the Federation**

The 1973 Constitution re-allocated the powers on taxation with the Federal Legislative List being principally made up of the principal sources of revenue, which includes customs duties, income tax, corporate tax and sales tax on goods.<sup>12</sup> The provinces had control over small and fairly inelastic means of revenue e.g. the agricultural revenue tax, property tax and excise duties on some commodities; this was not enough to sustain the increasing burden of expenditure. This meant that the federal government was collecting close to 80 percent of all the revenues and provinces were taking care of more than half the public spending, making them dependent on federal transfers via National Finance Commission (NFC) Awards.<sup>13</sup>

This fiscal arrangement bore a traditional leaning in a unitary fiscal construction, institutionalized by prior frameworks of dealing with the Constitution of Pakistan and the One Unit scheme (1955-1970). Fiscal hegemony of the central government was justified on the basis of national unification and defense yet, as a matter of fact, it

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<sup>10</sup> Robin Boadway and Anwar Shah, *Fiscal Federalism: Principles and Practice of Multiorder Governance* (Cambridge University Press 2009).

<sup>11</sup> S Akbar Zaidi, 'Issues in Pakistan's Economy: A Political Economy Perspective' [2015] OUP Catalogue.

<sup>12</sup> Craig Baxter, 'Constitution Making: The Development of Federalism in Pakistan' (1974) 14 Asian Survey 1074.

<sup>13</sup> Ishrat Husain, 'Pakistan's Economy and Regional Challenges' (2018) 55 International Studies 253.

strengthened the political dependency and bureaucratic ineffectiveness.<sup>14</sup> The provincial governments did not have the autonomy in their fiscal policies or motivation in generating revenue, as a result of which, chronic deficits occurred and the intergovernmental conflicts emerged regarding the reasons why resources should be distributed evenly.

### **National Finance Commission (NFC) Awards and Resource Distribution**

The NFC became the constitutional way of sharing revenues among the federation and the provinces in the Constitution of 1973 by establishing Article 160. The NFC was required to propose the distribution of divisible pool taxes, grants-in-aid and borrowing facilities after every five years. Theoretically, the NFC represented cooperative federalism but in reality, it was a political compromise and centralization.<sup>15</sup>

The early NFC Awards (1974, 1979, 1991, 1997 and 2006) had a scanty view of fiscal equity. The population metric was highly adopted in the distribution formula which gave Punjab the biggest quota and others particularly Balochistan province which was unsatisfied.<sup>16</sup> Additionally, the failure to announce NFC Awards promptly and the fact that federal government unilaterally held over-quota led to loss of confidence in the process. With no system of independent cheques and balances, provincial complaints were also aggravated, debilitating the constitutional assurance to a fair fiscal federalism.

### **Provincial Autonomy and Legislative Constraints**

The Concurrent Legislative List strengthen fiscal centralization by empowering the federal and provincial legislatures to make legislations on 47 topics many of which had the fiscal implication (e.g. labour, education, social welfare, environmental regulation).<sup>17</sup> When there was any conflict, the federal law took precedence in Article 143 which is practically a fiscal subordination of the provincial jurisdiction. This duplication of jurisdictions resulted in duplication of functions, wastage of services and lack of fiscal accountability.

Provincial governments thus operated in an independent fiscal system, which depended upon federal transfers and with a narrow band of taxation. The asymmetry undermined local responsibility, provincial elites were able to blame the federal government with shortfalls in their finances. As a result, the system created political conflicts especially between the center and the smaller provinces promoting demands on constitutional restructuring.

<sup>14</sup> Ayesha Jalal, 'The State of Martial Rule: The Origins of Pakistan's Political Economy of Defence' [1990] (No Title).

<sup>15</sup> Arshad Ali, *National Finance Commission Award: A Way Forward* (Islamabad: Institute of Strategic Studies 2010).

<sup>16</sup> Shaikh Asif Iqbal and others, 'FEDERALISM IN PAKISTAN: CHALLENGES, REFORMS, AND THE QUEST FOR POLITICAL STABILITY' (2025) 3 Policy Journal of Social Science Review 136.

<sup>17</sup> Craig Baxter, 'Constitution Making: The Development of Federalism in Pakistan' (1974) 14 Asian Survey 1074.

### **Judicial Interpretation and Federal Constraints**

The federal court system, although at times stressing the federal spirit of the Constitution, was in many ways the support of federal control of the purse. In *Federation of Pakistan v. Province of Sindh* (1993), The Supreme Court of Pakistan set aside the federal primacy over natural resources and customs duties once more, as the key point in *Province of Sindh* (1993) was the ambiguous situation in the constitution about the powers of ownership and taxation.<sup>18</sup> In the same way, the absence of an effective adjudicatory mechanism to resolve intergovernmental fiscal disputes was shown by the issues regarding the royalties to be shared in case of the gas and hydropower revenues. Article 153 saw the existence of a coordinating body called the Council of Common Interests (CCI) which held limited meetings and had a limited fiscal mandate and hence it was less effective until the 18th Amendment.

Principally, the fiscal framework in place in pre-18th Amendment Pakistan was a centralized system hidden under the language of federalism. Although the Constitution of 1973 attempted to find a compromise between the elements of unity and autonomy, there was a structural imbalance in the powers of revenue and poor accountability and coordination institutions weakened the federal bargain. These intergovernmental incompetence and inequities became the environment in which the 18th Amendment came into existence as a solution to reform them- offering to put fiscal policies back on to constitutional target and actual provincial self-government.

### **The 18th Amendment – Transformation of Fiscal Federalism**

The Constitution (Eighteenth Amendment) Act passed (unanimously) by the Parliament of Pakistan on April 8, 2010, is the biggest shape shifter in the constitution since 1973 defining how federal and provincial governments relate financially. The amendment was conceived in the light of a consensus building process, which followed in the Parliamentary Committee on Constitutional Reforms and was aimed at undoing the decades of financial centralization and the reestablishment of the federal balance of powers as envisioned by the Constitution framers.<sup>19</sup> It did this through the reassignment of the balance in legislative, administrative and fiscal powers, which enhanced the extent of democratic devolution and held accountability within the intergovernmental institutions.

### **Structural and Legislative Reforms**

Among the most interesting transformation factors of the 18th amendment was the elimination of the Concurrent Legislative List (Fourth Schedule, Part II), which had 47 subjects that were shared between the federation and the provinces.<sup>20</sup> This

<sup>18</sup> Shaikh Asif Iqbal and others, 'FEDERALISM IN PAKISTAN: CHALLENGES, REFORMS, AND THE QUEST FOR POLITICAL STABILITY' (2025) 3 Policy Journal of Social Science Review 136.

<sup>19</sup> Raja M Ali Saleem, 'THE SPECIAL PARLIAMENTARY COMMITTEE ON CONSTITUTIONAL REFORMS AND THE CONCURRENT LIST' [1947] Constitution 10.

<sup>20</sup> Jawwad Riaz, Ali Nawaz Khan and Zaheer Iqbal Cheema, 'Revisiting the Eighteenth Constitutional Amendment: Obscurities and Prospects' (2020) 4 Pak Soc Sci Rev 509.

legislative restructuring transformed 17 federal ministries such as the ministries of health, education, environment, social welfare and labour to provincial governments. The practical impact was the refocusing of the fiscal accountability on the functional accountability that made provinces to plan, finance and execute policies based on local interests.<sup>21</sup>

Moreover, the Article 142(c) has been amended to expressly give provinces the exclusive power on other issues which are not listed in the Federal Legislative List. The constitutional presumption under this provision was as inverse to the prior constitutional model (residual powers that are loosely defined and politically limited), in which provincial competence was in favor. There were also fiscal implications in the redistribution of subjects: the federal government now had less spending responsibilities and provinces now had more service delivery responsibilities which required corresponding improvement in their financial resources.

#### **Reinforcement of the National Finance Commission (NFC)**

The Amendment strengthened the mechanism of the National Finance Commission (NFC) in Article 160 which required that the federal government not diminish the portion of the provinces in the divisible pool in any Award made thereafter. This provision entailed a constitutional guarantee on one-sided federal retrenchment, based on historical experience of disagreement over revenue sharing. The structure of the NFC, which is the representation by federal and provincial finance ministers and their nominees, remained; but the aspect of accountability was strengthened with the stipulated transparency, a periodic review and release of recommendation.

Such new spirit of cooperation was seen with the negotiated Seventh NFC Award (2009) just before the Amendment. It took as the formula of multi-criteria distribution at least population (82%), poverty (10.3), revenue collection and generation (5%) and vice versa population density (2.7).<sup>22</sup> This shift from a single-criterion to a multi-variable model recognized fiscal disparities among provinces and institutionalized equity as a constitutional norm. The Amendment's reinforcement of Article 160 thus transformed the NFC from a discretionary political instrument into a constitutional embodiment of fiscal federalism.

#### **Strengthening of the Council of Common Interests (CCI)**

The re-establishment of the Council of Common Interests (CCI) by Articles 153-155 was also important. The CCI which used to be a dormant institution was reorganized to become a permanent constitutional line of intergovernmental requests. It has now got the Prime Minister as its chairperson, the four Chief Ministers and three federal nominees. The Amendment brought the CCI together to meet at least once every 90 days, reporting annually to the Parliament of Pakistan as an institutional restraint and

<sup>21</sup> Hasham Malik and Junaid Ashraf, 'Devolution: A Way Forward for Pakistan' 6 International Journal of Development and Sustainability 889.

<sup>22</sup> Muhammad Imran Ashraf, 'Federalism and Provincial Autonomy: Political and Economic Dimensions under the Constitution of Pakistan 1973'.

made intergovernmental decision-making accountable and transparent to the executive.<sup>23</sup>

The CCI has an expanded jurisdiction that is now broad in dealing with economic and fiscal issues such as natural resource, the electricity industry, interprovincial trade and policy conflicts due to devolved topics. This structural reform was to avoid re-centralization of powers by the administrative means and to make sure that the conflicts on finance transfer, royalties and coordination of regulations would be solved on the constitutional basis instead of being solved in the political bargain.

### **Devolution of Natural Resources and Fiscal Rights**

The other aspect of fiscal change had to do with the ownership and the control of the natural resources. Article 172(3) was amended by the 18th Amendment because mineral oil, natural gas and other natural resource in a provincial area or the surrounding territorial waters was to be owned by the federal and provincial governments respectively.<sup>24</sup> This clause resolved historical complaints, especially in the Sindh and the Balochistan, on the unfair distribution of the resources incomes. The principle of co-ownership was constitutionalized in the amendment and it formed the basis of transparency in fiscal rights and equalization of distributed income based on resources.

This change was especially decisive in the field of energy governance, in which the federation and provinces had one conflict after another. The amendment connected fiscal autonomy to economic sovereignty by providing provincial involvement in the resolution of resource management into constitutional recognition and thus developed a model of cooperative federalism within the fiscal constitution of Pakistan.

### **Institutional Accountability and Democratic Oversight**

As the 18th Amendment promoted fiscal autonomy it also promoted constitutional accountability. Article 140A required elections on local governments, which assured the devolution beyond provincial levels.<sup>25</sup> This clause was meant to democratize the fiscal policies by establishing a third level of government that was directly answerable to the people. Nonetheless, the transformative potential of Article 140A has not been realized due to the uneven application of the article across the provinces.

Also, parliamentary cheques were reinforced by stricter reporting requirements on the CCI and the NFC and judicial the cheque was open under Articles 184(3) and 199 to guarantee that it complied with the constitutional requirements. All these mechanisms formed a multi-layered accountability system that aimed to ensure that fiscal abuse

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<sup>23</sup> Asma Faiz, 'Intergovernmental Relations in Pakistan: Managing the Federation-Sindh Contestation' (2024) 62 *Commonwealth & Comparative Politics* 229.

<sup>24</sup> Asma Faiz, 'Mapping Federalism in Pakistan' *Challenge, Continuity, and Change in Pakistan* (Routledge 2025).

<sup>25</sup> Saad Ali Ahmed Malik, Abdullah Khalid and Maheen Rehan, 'Between Manifestos and Reality: Assessing Pakistan's Local Governance Challenges and Reform Pathways' (2025) 4 *Journal of Public Policy Practitioners* 113.

and tampering of the integrity of the intergovernmental relationships would be avoided.

### **Critical Evaluation**

In spite of these reforms, there are still issues which are concerned to realize the fiscal vision of the Amendment. The provincial abilities to handle the devolved sectors are still uneven and the delay in meeting the NFC and CCI meetings is still a hamper towards accountability.<sup>26</sup> In spite of these reforms, there are still issues which are concerned to realize the fiscal vision of the Amendment. The provincial abilities to handle the devolved sectors are still uneven and the delay in meeting the NFC and CCI meetings is still a hamper towards accountability.

### **Challenges and Gaps in Post-18th Amendment Fiscal Governance**

The Eighteenth Constitutional Amendment (2010) has been acclaimed as the landmark in the constitutional history of Pakistan; however, its implementation has demonstrated the fundamental problems regarding its structural and institutional entrapment. Even after the constitutional guarantee of devolution and autonomy, the formulation of fiscal federalism into practical governance is yet to be made. All these challenges are not based on the text of the amendment but rather caused by capacity to deliver the services of the administrative agencies, political competition and little intergovernmental accountability process.<sup>27</sup>

### **Institutional Capacity and Administrative Readiness**

Indicatively, though the Punjab Revenue Authority (PRA) and other such organizations in the Sindh and Khyber Pakhtunkhwa have also enhanced the process of collecting tax on services there exist large gaps between provincial capacity and provincial expenditure levels.<sup>28</sup> Besides, the fact that accounting systems are not harmonized between federal and provincial treasuries makes it harder to conduct fiscal reporting and auditing, which undermines transparency and accountability.

The fact that the federal bureaucracy was not keen in passing technical and financial control of devolved ministries acted as a drag to the process.<sup>29</sup> As noted by Shahid Javed Burki, the 18th Amendment had succeeded in the law devolution but had failed to accomplish the administrative decentralization leading to a disconnect between the constitution and reality which governed its practice.

Although Article 160 in the constitution requires that the national finance commission (NFC), consider and revise the award on a regular basis, five years later, the National

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<sup>26</sup> Muhammad Ali, 'Decentralized Governance Initiatives in Pakistan: Post 18th Amendment Perspective' (2015) 20 Pakistan Perspectives 67.

<sup>27</sup> Junaid Ahmad, *Decentralization and Service Delivery*, vol 3603 (World Bank Publications 2005).

<sup>28</sup> Muhammad Mushtaq, 'Managing Ethnic Diversity and Federalism in Pakistan' (2009) 33 European Journal of Scientific Research 279.

<sup>29</sup> Naem ur Rehman Khattak, Iftikhar Ahmad and Jangraiz Khan, 'Fiscal Decentralisation in Pakistan' [2010] The Pakistan Development Review 419.

Finance Commission has not been able to follow their five-year regularity on the revenue sharing award. The Amendment postponed delivery of the last NFC Award on 2009 before the entailing talks have made several unsuccessful attempts because of political differences about fiscal space, servicing of debts and provincial entitlements.<sup>30</sup>

### **Delays and Dysfunction in the NFC Mechanism**

NFC has not ensured regular five-year review cycles of awards of revenue sharing despite the constitutional requirement in Article 160 of the Constitutions of periodic review. The most recent NFC Award was given in 2009 and the debate has been interrupted following the Amendment and further negotiation is still going on, simply because political leaders disagree on fiscal space and province serving and entitlements.<sup>31</sup>

This latitude is bad in fiscal predictability and constitutional accountability. The use of non-divisible pool revenues including petroleum levies and surcharges which is increasingly being employed by the federal government has further lost the spirit of the NFC actually recalling fiscal control.<sup>32</sup> Provinces claim that these practices breach the guarantee in Article 160(3A), which lacks unilateral reduction in its share. The constitutional structures have been established, yet there is political weakness as far as enforcement is concerned.

The Council of Common Interests (CCI) that might have mediated such disputes has not always been practicing this oversight by holding irregular meetings without technical secretariat backing.<sup>33</sup> Consequently, the intergovernmental fiscal structure remains more reliant on the haggle than the institutions.

### **Horizontal and Vertical Fiscal Imbalances**

Although the 18th Amendment solved the vertical imbalance through higher allocations of the provinces in federal revenues, horizontal imbalances have continued or in certain situations even expanded among the provinces. The multi-criteria formula implemented according to the Seventh NFC Award helped correct inequities partially but failed to eliminate structural asymmetries of the economic capacity.<sup>34</sup> The provinces that have low fiscal status like Baluchistan continue to be over-dependent on federal transfers which reduces their financial autonomy in practice.

<sup>30</sup> Zahid Hasnain, *Devolution, Accountability, and Service Delivery: Some Insights from Pakistan*, vol 4610 (World Bank Publications 2008).

<sup>31</sup> Anwar Shah, *Making Federalism Work: The 18th Constitutional Amendment* (World Bank, Washington, DC 2012).

<sup>32</sup> Muhammad Asif Raza, 'Navigating Fiscal Federalism in Pakistan: Balancing Decentralization and Economic Stability Post-18th Amendment' (2024) 9 *Global Political Review* 80.

<sup>33</sup> Irfan Khan, Hassan Shah and Sajjad Ali, 'Political Economy of Conflict: An Analysis of Council of Common Interests in the Post-18 Th Constitutional Amendment.' (2021) 12 *Turkish Online Journal of Qualitative Inquiry*.

<sup>34</sup> Muhammad Asif Raza, 'Navigating Fiscal Federalism in Pakistan: Balancing Decentralization and Economic Stability Post-18th Amendment' (2024) 9 *Global Political Review* 80.

In addition, the provinces have not been much keen on expanding their tax bases especially on politically sensitive aspects such as taxing the agricultural income and property valuation reforms. Therefore, the province fiscal reliance remains as a tissue on the backbone of a self-sustaining fiscal federalism. The moral hazard in intergovernmental finance arises as a result of the political economy of taxation, in which subnational governments will opt to engage in federal transfers, rather than local taxes, which are less popular.<sup>35</sup>

### **Weak Oversight and Accountability Mechanisms**

The responsibility framework of the Amendment which is pegged on Articles 140A and 153 has grave shortcomings in implementation. Despite the requirement of Article 140A that local governments be elected, provincial governments have again and again postponed local elections, or impoverished fiscal decentralization, to the district level.<sup>36</sup> This has created a two-level federalism as opposed to the real three-levels of the federalism that the Amendment envisions. The fiscal chain of accountability will be incomplete without stable local governments and less levels of accountability to the citizen in spending.

On the provincial level, there are recurring irregularities in the use of the funds, as indicated in the Public Accounts Committee reports (PACs), Auditor General of Pakistan Auditor General of Pakistan (AGP), but there are no effective enforcement and recovery mechanisms.<sup>37</sup> The judiciary does at times do so by constitutional petition, especially under Article 184(3), but there are no special fiscal tribunals or even dispute-resolution procedures to place systems under regular control.

Besides, the Council of Common Interests despite the revival is still constrained by partisanship and reduced technical capability. Its annual reporting, which is required by the constitution, is usually late enough to weaken their value as audit tools.<sup>38</sup>

### **Political Centralization and Recentralization Trends**

The other new issue is the slow process of re-centralizing the fiscal authority either extra-constitutionally or administratively. The broadening of the control over the financing of development by subsequent federal governments through Public Sector Development Programme (PSDP) grants and special federal projects in the provincial areas.<sup>39</sup> This tradition discredits provincial autonomy of policy and confusingly crosses constitutional borders.

<sup>35</sup> Ehtisham Ahmad, 'Political Economy of Tax and Digital Transformations in Pakistan' (2024) 63 *The Pakistan Development Review* 135.

<sup>36</sup> Kalsoom Sumra, '18th Amendment and the Problem of Cohabitation between Bureaucracy and Elected Representatives in Local Government of Pakistan' (2017) 11 *FWU Journal of Social Sciences* 20.

<sup>37</sup> Muhammad Rashid and others, 'Auditors' Perspectives on Financial Fraud in Pakistan—Audacity and the Need for Legitimacy' (2023) 13 *Journal of Accounting in Emerging Economies* 167.

<sup>38</sup> Asma Faiz, 'Center-Sindh Relations in Pakistan after the 18th Amendment: Anatomy of Executive Federalism under the PTI Government 2018–2022' (2023) 3 *Journal of Sindhi Studies* 1.

<sup>39</sup> Vasundra Raje, 'Ethnic Diversity, Federal Structure and the Question of Baloch Nationalism in Post-Colonial Pakistan' (2024) 16 *Journal of Polity and Society*.

Even the international monetary fund (IMF) stabilization programs make the situation worse by setting the fiscal discipline targets which were negotiated by the federal government without consultation by the provinces.<sup>40</sup> The results of such arrangements put the provinces in the background of national fiscal policymaking, which is against the collaborative model as portrayed in the Amendment.

The history of post-18th Amendment proves that the constitutional reform is not sufficient to ensure effective federalism. Although the Amendment fixed legal asymmetries, fiscal federalism in Pakistan still has structural barriers: poor capacity, poor accountability, political centralization as well as institutional mandates and non-observation. This reality is evidenced by the fact that these problems remain and that the transition between the model of a centralized and cooperative U.S. federal system is a long process that needs institutional maturity, fiscal transparency and long-term political commitment.

### **Comparative Lessons and Policy Recommendations**

The history of fiscal federalism in the post-18<sup>th</sup> Amendment Pakistan indicates improvement along with the unresolved flaws in institutional construction and fiscal responsibility. A comparative study of the other federation has shown that sustainable fiscal federalism involves elastic balance between autonomy, accountability and intergovernmental coordination.<sup>41</sup> Experiences of other countries like India, Canada and the United States can serve as good guidance to follow by Pakistan in its continued constitutional and fiscal tightening.

### **Comparative Lessons from Other Federations**

#### **India: Institutionalized Fiscal Arbitration**

The history in India with the Finance Commission provides a source of continuity and flexibility of institutions. Both The Commission and the States Article 280 of the Constitution of India constituted every five years, the Commission is a constitutional arbiter of revenue sharing between the Union and the States.<sup>42</sup> Its suggestions are premised on clear formulae that take into consideration population, income distance, fiscal discipline and demographic performance. An Indian succession in helping to institutionalize data-driven arbitration, rather than prolonged political deadlocks that are common throughout the National Finance Commission (NFC) process in Pakistan. Further, the reforms of the 73<sup>rd</sup> Amendment in India as far as Panchayati Raj Institutions are concerned, have further increased fiscal devolution, which makes sure that the local governments have direct interest in intergovernmental finance.

In the case of Pakistan, a similar formula-based framework where there are deadline schedules and a separate fiscal secretariat managed by NFC would result in a better forecast and decreased political discretion in fiscal allocations.

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<sup>40</sup> Ummara Munir, 'Privatization and IMF Programs: Socio-Economic Implications for Pakistan' (Humanities and Social Sciences 2025).

<sup>41</sup> Ronald L Watts, 'Comparing Federal Systems'.

<sup>42</sup> Y Venugopal Reddy and GR Reddy, *Indian Fiscal Federalism* (Oxford University Press 2018).

### **Canada: Cooperative Fiscal Federalism and Equalization**

Canada is a well developed example of cooperative federalism with the constitutional principles being strengthened by intergovernmental negotiation. Canadian Equalization Program under Section 36(2) of the constitution act has guaranteed that each of the provinces has the ability to equally offer reasonably comparable services to the citizens at similar taxation rates.<sup>43</sup> The equalization transfers of the federal government are non-conditional but regulated according to clear fiscal indicators as a method of promoting fairness and autonomy.

The Canadian regime proves that fiscal solidarity may be able to live side by side with provincial autonomy, provided by credible institutions, clear information and privileged collaboration. In the case of Pakistan, there could be a parallelism made by enhancing the horizontal equalization processes in the framework of NFC not only population and poverty, but also the imbalance of development and fiscal effort index.

### **United States: Rules-Based Intergovernmental Transfers**

The federal grants within the states of the United States are formula-based grants that have good oversight. Medicaid and Education Grants, among other programs, are connected between the financial allocations and measured outputs and standards of compliance, which federal audit offices oversee.<sup>44</sup> Despite the fact that the U.S. Constitution does not stipulate precise distribution formula in the fiscal distribution, its great legislative control and judicial implementation form de facto responsibility in the fiscal federalism. The Government Accountability Office (GAO) is another example of an institutional model that can be followed by Pakistan with a model of parliamentary fiscal oversight commissions and a separate auditing role in the Council of Common Interests (CCI).

### **Policy Recommendations for Pakistan**

Based on these experience comparisons, a number of policy and institutional reforms are needed to enhance Pakistan post-18<sup>th</sup> Amendment fiscal federalism and provide constitutional accountability.

### **Institutionalizing the NFC through Permanent Secretariat**

The NFC must be transformed into a permanent fiscal institution that is included with a technical secretariat that maintains databases, does fiscal research and publishes periodical reports.<sup>45</sup> It would make it a permanent entity rather than an informal political assembly, like the Finance Commission of India, or the Federal-Provincial Fiscal Arrangements Branch of Canada. In addition to that, Article 160 might be

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<sup>43</sup> Anwar Shah, 'Rethinking Fiscal Federalism in Canada: A Local Government Perspective' [2008] Canada: The State of the Federation 227.

<sup>44</sup> Harvey S Rosen and Ted Gayer, *Public Finance. 10 Uppl* (New York: McGraw-Hill Education 2014).

<sup>45</sup> Shaikh Asif Iqbal and others, 'FEDERALISM IN PAKISTAN: CHALLENGES, REFORMS, AND THE QUEST FOR POLITICAL STABILITY' (2025) 3 Policy Journal of Social Science Review 136.

improved to implement time-limited NFC Awards and judicial redress would be possible in the event of non-observance.

### **Empowering the Council of Common Interests (CCI)**

The CCI ought to be transformed into an authority to coordinate policies with a financial degree of independence, permanent staff and authority to enforce.<sup>46</sup> The financial management of the CCI may consist of dispute management and ownership of resources, royalties and development planning hence affirming and institutionalizing cooperative federalism. CCI annual reports to parliament of Pakistan should become obligatory, it should be publicly available and debatable by parliament.

### **Strengthening Provincial Fiscal Capacity**

The provincial authorities need to increase their local services by reforming property and agricultural taxation, implementing digital land registries and setting the same level of the one provincial tax in a digital form on the services provided in other provinces. Provinces can be assisted in the designing and implementation of modern PFM systems through capacity-building programs funded by such institutions as the World Bank and Asian Development Bank.<sup>47</sup> Fiscal discipline and transparency may be further enforced on by fiscal responsibility legislation, similar to that implemented in India and Brazil.

### **Revitalizing Local Governments**

Article 140A vision of the constitution can only be actualized by having functional and financially empowered local governments. Local Government Finance Acts should be passed by the provincial assemblies, which give predictable transfers, ensure the audit requirements and participatory budgeting.<sup>48</sup> The third level of fiscal responsibility is the local governments which have a connection between resources use and citizen control. In the absence of this, then the process of devolution is not full and will be reversible politically.

### **Enhancing Parliamentary and Judicial Oversight**

The Public Accounts committees (PACs) of the federal and provincial legislatures are to be enhanced with technical skills and actual enforcement. In the same vein, the judiciary would be able to come up with jurisprudence under Articles 160 and 172(3) to clarify any ambiguities in the context of ownership of the resources and a revenue-sharing controversy.<sup>49</sup> Fiscal conflicts could also be resolved faster by a dedicated

<sup>46</sup> Asma Faiz, 'Intergovernmental Relations in Pakistan: Managing the Federation-Sindh Contestation' (2024) 62 Commonwealth & Comparative Politics 229.

<sup>47</sup> Shabbir Ahmed, 'The Public Financial Management in Context of New Global Environment—A Case of Pakistan' *Effective Public Administration Strategies for Global "New Normal"* (Springer 2022).

<sup>48</sup> Ayesha Hanif and Muhammad Zeeshan Hanif, 'Learning from History: The Journey of Decentralization in Pakistan' *Making Democratic Decentralization Work in South Asia: Looking Back and Ahead* (Springer 2025).

<sup>49</sup> '8\_ecosai-Circular-Spring-Issue-2020-Article-Faisal Saeed Cheema'.

Fiscal Federalism Tribunal that is similar to the Inter-State Council in India which would help to lower politicization of fiscal disputes.

### **Promoting Data Transparency and Public Accountability**

The fiscal system of Pakistan is plagued by lack of transparency of revenue reporting and spending. An Integrated Fiscal Information Portal- available to both the lower and higher government as well as to the citizens- would be beneficial in helping transparency.<sup>50</sup> The civil society should be involved in facilitating the monitoring of fiscal performance, as well as academia in making sure that devolution will be translated to actual output in service delivery.

The comparative approach emphasizes the fact that fiscal federalism is adaptive, rather than fixed. It develops in the form of constant bargaining, institutionalization and open responsibility. This constitutional basis remains of the 18th Amendment, however, the difficulty facing Pakistan currently is how to govern federalism development of institutions that can maintain fiscal independence as well as implementing accountability. To modify this transformative potential of the Amendment, the adoption of the best practices of successful federations, the enhancement of intergovernmental forums and the introduction of transparency into the fiscal operations become the inalienable steps on the way. Finally, it is the constancy of the federation of Pakistan resource distribution, as well as constitutions trust something, i.e.: the guarantee that all levels of the government will exercise fiscal authority in a prudent, transparent and in the general welfare manner.

### **Conclusion**

The Eighteenth Amendment is a breakthrough in adding constitutional changes in Pakistan that have altered the lines of fiscal autonomy, political accountability and intergovernmental balance. It was through this Amendment, which, by abolishing the Concurrent Legislative List, reinforced the NFC and CCI and ensured equitable distribution of revenue, that the federal equilibrium of 1973 was reinstated. It was an awareness that it was no longer time to be bound by their history in which the provincial governments were restricted solely by the centralized model of governance. Nevertheless, the history of the last one decade indicates that devolution, though embedded in the constitution is yet to be fully achieved administratively. The provincial governments are still dependent on the federal transfers instead of creating the sustainable bases of revenue, where the institutional inertia inhibits the effectiveness of the oversight establishments. Constitutional design and governance practice are out of alignment, as demonstrated by the log jams of NFC Awards, lack of consistency in CCI participation and effective local governments.

Fiscal federalism presupposes not only the decentralization of power but also the organizational rigidity to act within the domains of such power responsibly. Pakistan needs to shift then to governance reform, rather than constitutional reform, that is

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<sup>50</sup> Iqbalpasha Shaikh and Raana Khan, 'The Menace of Corruption in Pakistan: Causes, Impacts and Solutions' (2023) 11 Russian Law Journal 719.

capacity-building, fiscal transparency and assorted intergovernmental coordination. Institutional experience indicates that formula-driven transfer and empowered local government act as important aspects to institutionalization of accountability in ensuring that the fiscal autonomy is translated to better service delivery and democratic involvement.

Finally, the 18th Amendment can succeed only when we nurture the national culture of constitutional trust what I mean by this is a political and administrative culture that would make the federation and provinces collaborative and cooperative entities, not rivals. Maintaining this balance between sovereignty and responsibility is what Pakistan is going through of developing federal democracy as well as the perseverance test of its constitutional maturity.

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