

Planning and Economic Coordination Challenges after the 18th Constitutional Amendment

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ABSTRACT

The 18th Amendment has significantly changed the Constitution of Pakistan. It has increased the number of subjects in the provincial sphere. This expanded autonomy was fiscally supported by the 7th National Finance Commission (NFC) Award, which reversed the federal-provincial resource distribution formula in favour of the provinces. In this paper, the authors find that the new structure of planning and economic coordination required to implement these fundamental changes is not in place. The Planning Commission (PC), i.e., Ministry of Planning Development & Special Initiatives, continues to be a think tank of the federal government rather than the federation. Its visioning for the long-term and planning documents for the medium-term on an annual basis are found to be against the spirit of the amended Constitution, which stipulates a participatory process. The authors' analysis leads to the conclusion that the Commission should be an independent secretariat of the Council of Common Interests (CCI) to ensure effective coordination. Towards this end, members of the Commission should also represent the provinces. Devolution to the local level, however, will continue to be a challenge.

Keywords: 18th Amendment, Federalism, National Planning, Economic Coordination, Local Government.

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1. INTRODUCTION

On 19 April 2010, the President of Pakistan approved the Constitutional Act 2010, commonly known as the 18th Constitutional Amendment. This paved the way for expanded provincial autonomy by abolishing the Concurrent Legislative List, which had 47 subjects (List attached as Appendix 1). On these subjects, the Parliament as well as the Provincial Assemblies could legislate. Abolition of the Concurrent List granted provinces exclusive rights to enact laws on subjects not appearing in the Federal Legislative List. On 18 March 2010, just before passing the 18th Amendment, another Presidential Order promulgated the 7th National Finance Commission (NFC) Award that changed the vertical distribution of revenues between the Federal Government and the provinces. It increased the share of the provinces from 49% to 57.5%. Thus, the provinces now had more resources and powers to manage and run their affairs. They now had the power to govern and manage a larger number of subjects than the Federal Government. Social sector, the indicators of which have been a source of global shame, lies in the provincial domain. Education, health, and other components of the expanded provincial autonomy required additional resources.

Under the 18th Amendment, National Planning and National Economic Coordination (NEC) including Planning and Coordination of Scientific and Technological Research, are now in the Federal List, Part II. The NEC is the highest decision-making body for economic planning and development. The list is under the purview of the federation, represented by the CCI, and not the Federal Government.

Scholars have mostly assessed implications of the 18th Amendment from a strategic and political perspective. Brasher (2021) explains that formal structures of federalism and power distribution in Pakistan are based on religiosity and ethnicity. The study found that the centre-periphery relation, based on ethnicity, was counterproductive. Ahmed (2020 and 2017) raised the question that the 18th Amendment altered one-third of Pakistan's Constitution. It was a strategic arrangement to win the trust of the federating units. Waseem (2015) argued that Punjab's dominance would not diminish in the Army and bureaucracy even after 18th Amendment. According to Adeney (2012), vertical distribution of power and inequitable provincial representation in central institutions was a source of continuous tension between the Centre and provinces.

This is the first study that focuses on economic planning and economic coordination processes after the 18th Amendment. It discusses the role of planning in a decentralised dispensation. The purpose is to highlight the need for structural alignment of planning process in Pakistan with the requirements of 18th Amendment and the 7th NFC Award. These two changes have devolved bulk of the resources and authority away from the Centre to the provinces, but the responsibility is fragmented. As a result, there are now

signs of fiscal collapse of the Federal Government and suggestions to roll back the 18th Amendment.

The motivation is to evaluate planning structure, process, and role of provinces in planning and issue of sectoral priorities, provincial borrowing, economic coordination, and constitutional alignment in the post-18th Amendment scenario. These processes of planning and economic coordination between the Federal and Provincial Governments (two tiers of government) would allow devolution of power from provinces to the local level consistent with the Constitution. This study explains these steps in some detail by bringing out the inter-linkages. It also points out the slow progress since 2010-11 and notes with concern that some moves by the Planning Commission may regress into re-centralisation.

After 12 years of the Amendment, there is still a Federal Ministry of Planning Development and Special Initiatives as well as the Planning Commission. While the Planning Commission prepares working papers for the NEC, the secretariat of the NEC is the Cabinet Division. The NEC itself forms part of the Federal Legislative List, Part II. As already noted, the Federal Legislative List, Part II lies entirely in the sphere of the CCI, whose own secretariat is the Ministry of Provincial Coordination. Again, while the devolution from the federal to the provincial level has been completed, the devolution in line with Article 140A of the Constitution from provincial to the local level has not taken place. Resultantly, the entire process of planning and economic coordination has not been restructured in accordance with the spirit of the Constitution.

The paper gives an historical account of planning processes. It attempts to generate a descriptive-institutional analysis on pragmatic interpretations of planning and economic coordination within the confines of constitutional developments. It argues that centralised planning processes in Pakistan are inconsistent with the 18th Constitutional Amendment. Their unreformed continuation gives confused signals to various players. Besides making economic planning ineffective, the whole process is a fiscal burden. The authors argue that the constitutional role of the Council of Common Interests (CCI) needs to be respected to ensure participatory planning and coordination. Following the true spirit of the Constitution, an effective CCI becomes more than a dispute resolution body. Towards this end, it is important to make Planning Commission a permanent secretariat of the CCI as well as the National Economic Council (NEC).

Section One is the introduction. Section Two outlines the historical evolution of national planning and related institutions. Section Three brings forth the jurisdictional shifts resulting from the 18th Amendment. Section Four explains the Provincial Public Sector Development Programme and revenues. Their role in planning ought to be in proportion to the increased size. Section Five argues that the proper forum for economic coordination is the CCI. Section Six is devoted to the least discussed issue of provincial borrowing. In

Section Seven, an analysis is presented of the extent to which the prevailing planning process and economic coordination mechanisms comply with the constitutional change. Section Eight gives the conclusions and recommendations. In terms of methodology, the paper follows a hypothetic-deductive reasoning approach that stresses the virtues of falsification; and includes data analysis and interviews of subject experts.

2. HISTORICAL PERSPECTIVE ON PLANNING IN PAKISTAN

According to Haq (1963), planning is a process of blending institutions and procedures for achieving the ideologically inclined goals of equality and opportunity without resorting to totalitarian techniques. Planning in Pakistan was a central subject before the 18th Amendment. According to Schloss (1965), Pakistan set up a central planning agency at the highest level of the government. This type of agency needs a consistent agenda and political stability. After 75 years of planning, it can be concluded that planning in Pakistan did not account for preference heterogeneity of various regions (local taste). Instead, the ‘golden’ principle was the maximisation of uniformity of policy by minimising spill over costs. However, economists who were writing about the planning process in Pakistan, such as Baqai and Brecher (1973), and Tahir (1971) observed that the Planning Commission was handicapped in addressing heterogeneity, micro- planning, and democratisation of policy mix by broadening participation. Regional inequalities represented a continuing development challenge in most countries, including Pakistan. The 18th Amendment recognised this and changed the mandate of the National Economic Council (NEC). Bhalla (1967) reviewed the first Perspective Plan of Pakistan (1965-85). This plan, prepared by the Harvard Advisory Group based on Leontief type input-output model, comprised of 98 equations and 105 variables. According to him, this model lacked details about human resource requirements and planning methodology to overcome deficiencies of an unskilled labour force. The author further commented that planning in Pakistan was never detailed and comprehensive; it lacked stage-by-stage integration with the economy. Baqai and Brecher (1973) discussed the role of foreign aid in economic planning in Pakistan and maintained that plans in Pakistan were unrealistic, ambitious, and lacked sufficient data.

These observations relate to the heyday of planning in Pakistan in the 1960s. While the economy achieved high Gross Domestic Product (GDP) growth, income and regional inequalities increased sharply. The per capita income disparity between East and West Pakistan became a serious political issue. It played an important role in the emergence of East Pakistan as the independent state of Bangladesh in 1971.

To address the shortcomings in the planning process, the new Constitution of Pakistan promulgated in 1973 provided a three-way distribution of power for legislation. First, all subjects not included in the Federal and Concurrent Lists were left to the provinces.

Second, the Federal Government was allowed exclusive jurisdiction over the Federal List, Part I. Third, both Federal and Provincial Governments were allowed to make laws regarding the subjects in the Concurrent List. Last, but not the least, Part II of the Federal List was made the jurisdiction of the CCI, an institution of the Federation including all provinces and not just the Federal Government. This was an important step towards a participatory federation.

Planning and economic coordination continued to be centralised, as the subject was kept in the Federal List, Part I. However, the participatory spirit of the Constitution was kept dormant by minimising the role of the CCI (Tahir 2006a; 2006b; and 2007). In its place, an Inter-Provincial Coordination Division and a ministry by the same name were created in 1974 under Rule 21 of the Rules of Business, 1973. Initially, an Inter-Provincial Conference under the Prime Minister and later an Inter Provincial Coordination Committee under a minister holding that portfolio disposed of matters falling in the purview of the CCI. The first meeting was held in July 1974. In all, 28 meetings were held until April 2007 (GoP 2013a). In 2010, the 18th Amendment to the Constitution and the 7th NFC Award involved major steps towards decentralisation of planning and economic coordination, devolution of power and enhanced participation of the provinces in the federation (Tahir 2012; Tahir and Tahir 2011; 2012). There was also an explicit recognition of the exacerbating issue of regional inequity.

Implications of the 18th Amendment for planning and economic coordination are still a neglected area (Sharma 2019). Some scholars have assessed the implications through the lens of politics. Khalid (2020) sees the Amendment as a step towards participatory governance, which can accommodate different interests, identities, and institutions. Nishtar et al., (2013) concluded that devolution of health sector provides an opportunity to reform the same. As health information, interprovincial coordination, global health, and health regulation continue to be federal concerns, while health facilities are a provincial mandate, the complexities of the governance system remain. Rana (2020) shows that implementation of 18th Amendment is a big challenge because federal bureaucracy is reluctant to transfer resources and authority to provinces.

3. CHANGING ROLE OF PLANNING AND ITS INSTITUTIONS

According to the Constitution, role of the NEC is advisory. It is charged with the responsibility of making plans for socioeconomic development ‘for advising’ the Federal Government and the provinces. The Federal Government oversees economic and commercial policies, a reference in effect to the macroeconomic and trade policies. Financial policies lie in the federal as well as provincial domains as the 18th Amendment permits Provincial Governments to contract debt for the first time. A new Clause (4) was

inserted in Article 167 that permitted the provinces to raise domestic and international loans.

The 18th Amendment made two major changes affecting planning and economic coordination (Tahir 2013). First, national planning and economic coordination was a federal subject before the Amendment in the Federal Legislative List, Part I listing the subjects falling in the exclusive jurisdiction of the Federal Government. It was moved to Part II of the Federal List. Second, the apex institution for national planning and coordination - the National Economic Council (NEC) - was redefined and reconstituted to allow for the implications of the shift of the subject of planning and economic coordination to Federal Legislative List, Part II. The amendment takes away the discretion of the Prime Minister and the Provincial Governments in regard to the size and composition of the NEC. The amended Clause (1) fixes the strength at 13 members, with 8 members from the provinces. Clauses (3) and (4) empower the provinces to requisition a meeting and also determines the quorum. Occasionally, mid-year meetings were held in the past. However, the Amendment has specified the frequency of the meetings. Parliamentary oversight has been ensured by the new Clause (5), which requires the presentation of an Annual Report to the National Assembly as well as the Senate.

In terms of functions to be performed, the relevant Clause (2) has been amended to reflect the substantially increased quantum of provincial autonomy. Balanced development and regional equity have been added to the guiding principles of plan formulation. The need for this had been recognised in the 7th NFC Award finalised just before the 18th Amendment. A separate report is required to be laid before both houses of the Parliament 'on the observance and implementation of the Principles of Policy' (Article 29 (3)). Before the 18th Amendment, this report was presented only to the National Assembly. The requirement applies to the provinces also vis-à-vis the respective Provincial Assemblies.

4. SECTORAL DISTRIBUTION

Since the Amendment, the provinces have full control of the social sector. This is the result of the abolition of the Concurrent Legislative List in the Fourth Schedule containing subjects where Federal as well as Provincial Governments exercised jurisdiction. Education, health, population, labour, social welfare, *zakat*, *auqaf*, environment, tourism, print media and cinematography, culture and archaeology formed part of this List. Constitutionally, any subject not mentioned in the Fourth Schedule lies in the Provincial domain.

With regard to infrastructure and natural resources, the Amendment allows a greater space for the provinces to decide for themselves. As a consequence of the abolition of the Concurrent List, the provinces now control the inland waterways and shipping, besides

mechanically propelled vehicles. Major ports have been moved from the Federal Legislative List, Part I to Part II. Formerly on the Concurrent List, electricity has also been moved to Part II. Before the Amendment, both the Federal Government and Provincial Governments could set up power stations in their respective jurisdictions. Consistent with the shift of the subject of electricity to Part II, the Amendment makes it obligatory for the Federal Government to consult the province of location. A new clause has been added for dispute resolution.

In the case of minerals, oil and gas, provinces now have 50% of the ownership. The provinces also have the full ownership of fish stock in territorial waters. Article 172 has been suitably amended.

According to the amended Clause (2): ‘All lands, minerals and other things of value within the continental shelf or underlying the ocean beyond the territorial waters of Pakistan shall vest in the Federal Government.’ The new Clause (3) reads thus: ‘Subject to the existing commitments and obligations, mineral oil and natural gas within the Province or the territorial waters adjacent there shall vest jointly and equally in that Province and the Federal Government.’

Article 158 already gives priority to the requirements of natural gas in the province of location.

Article 155 provides an elaborate procedure for the redressal of complaints regarding interference with water supplies through the CCI. The 18th Amendment extends water rights and amends Article 155 such that interests in water cannot be prejudicially affected by the supply from a natural source as well as reservoirs. This has implications for the construction of reservoirs in the future.

5. PUBLIC SPENDING AND REVENUES

The Federal Government through the federal Public Sector Development Programme (PSDP) implements projects and programmes while the provincial component of the PSDP is utilised through respective Annual Development Programmes (ADPs) of the Provincial Governments. In addition to the PSDP, public sector corporations set up under federal laws like Water and Power Development Authority (WAPDA) and Oil and Gas Development Company Ltd (OGDCL) mobilise their own resources. There are three main sectors – infrastructure, social sector, and commodity production sector comprising of industry and agriculture. The Federal Government has played a role in the development of industry through a provision in the Federal List, Part II. Item 3 of the List, which remains unchanged after the Amendment, allows the Federal Government to set up industries through legislation in public interest. Their listing in Part II retains a provincial role in the governance of the federally set up industries and corporations.

The total number of federal ministries at the time of devolution in 2009-10 was 48, 17 of which were assigned to provinces as a result of the abolition of the Concurrent List. Following ministries have been devolved to provinces after 18th Amendment:

Table 1: List of Ministries Devolved to Provinces

Phase I	Phase II	Phase III
<ul style="list-style-type: none"> • Local Government and Rural Development • Population and Welfare • Special Initiatives • Youth Affairs • <i>Zakat and Ushr</i> 	<ul style="list-style-type: none"> • Culture • Education • Livestock and Dairy Development • Social Welfare and Special Education • Tourism 	<ul style="list-style-type: none"> • Environment • Health • Labour and Manpower • Minorities Affairs • Sports • Women Development • Food and Agriculture

Source: Government of Punjab (2011).

At the federal level, the Ministries outnumbered the administrative Divisions, which were 41. On 31 May 2012, there were 39 Ministries and 43 Divisions. These came down, respectively, to 28 and 33 after the new government took over in June 2013. In 2020, ministries numbered 40, while the number of Divisions remained 43 (GoP 2020). As other parties joined the Government, the number increased. Old ministries were revived under new names. Instead of reducing the number of Divisions further in the true spirit of the 18th Amendment, the Federal Government added more and more. Hence, the current expenditure on the Divisions increased rather than decreasing. As shown in Table 2, on an average, the devolved ministries incurred current expenditure of PKR 23 billion. There were, however, no savings as the federal administrative Divisions kept on increasing.

**Table 2: Federal Government Expenditure on Devolved Ministries
(PKR in Billions)**

Years	Current		Development		Total	
	Budget	Revised	Budget	Revised	Budget	Revised
FY08	21.6	24.3	49	43.1	70.6	67.4
FY09	24.4	19.7	58.5	43.8	82.9	63.5
FY10	24.5	19.9	66.9	50.2	91.4	70.1
FY11	21.5	29.8	45.1	29.6	66.6	59.4
Average	23	23.4	54.9	41.7	77.9	65.1

Source: SBP (2011).

The story of development expenditure is no different. In the devolved subjects, an annual average of PKR 42 billion was spent by the Federal Government before the 18th Amendment. Post Amendment, the Federal Government continued to make development expenditure on some devolved subjects. These included vertical programmes for health and population planning. The decision was taken by the CCI on 28 April 2011 (GoP 2013a). For education, the funding of Higher Education Commission (HEC) also remains with the Federal Government for the duration of the 7th NFC Award. In addition to this, the Federal Government maintains a large portfolio of politically motivated projects in areas lying clearly in the provincial domain. Devolution, thus, has not led to any reduction in expenditure at the federal level. The resulting fiscal haemorrhage, entirely of the Federal Government's own making, is sometimes used to make a case for the rollback of the 18th Amendment and the 7th NFC Award.

The provinces were more prudent, as the creation of new departments for the devolved subjects was avoided (Government of Punjab 2011). With enhanced resources, Provincial ADPs should have overtaken the Federal PSDP. There is, however, a mixed pattern. As noted above, the Federal Government keeps implementing projects in the provincial domain for political reasons, which adds to its fiscal problems.

**Table 3: Development and Federal and Provincial Revenues
(PKR in Billions)**

Fiscal Years	Total PSDP ^a	Federal PSDP	Provincial ADP	Total Federal Revenue ^c	Federal Share in NFC	Provincial Total Revenue ^d	Provincial NFC Share
FY10	652.8	394.4	258.4	2077.8	1341	876	633.5
FY11	514	268.4	245.6	2252.9	1145.2	1211.3	999.3
FY12	743.9	368.5	375.4	2566.5	1334.3	1334	1089.9
FY13	1139.9	768.3	371.5	2982.4	1560.3	1544.4	1215
FY14	1236.5	806	430.5	3637.3	2005.8	1902.4	1406.3
FY15	1140.6	641.797	498.8	3931	2123.9	1902.4	1538.7
FY16	1314.1	721.7	592.4	4447	2218	2293.9	1862.2
FY17	1680.7	725.6	852.2	4936.7	2583.2	2428.2	1965.8
FY18	1621.7	576.1	880.1	5228	2478.7	2938.5	2217.4
FY19	1219.2	502.1	506.2	4900.7	2037.8	2995.9	2397.8
FY20	1203.7	581.7	622	6272.2	3278.3	3241	2504
FY21*	1,315.7	545.4	770.2	6903.4	3527.8	3728	2741.9

Source: State Bank of Pakistan, Statistical Supplement, various issues.

Note: ^a Total includes statistical discrepancy. ^b Provisional. ^c Total Federal Revenue includes tax and non-tax revenue. ^d Includes Provincial own revenue.

This change is shown in Table 3. In the pre-7th NFC year of 2009-10, the Provincial ADPs were significantly below the Federal PSDP. In the following year, i.e., the first year of NFC 7, ADPs came closer to Federal PSDP and then exceeded it in 2011-12. Next four years witnessed the Federal PSDP overtake by a wide margin. Since then, the position has reversed. These results are based on the actual utilisation data. The original budgets are more an indication of hope than the real state of affairs. On the revenue side, Table 3 shows that the provincial component of the total revenues in 2009-10 was 42.2%. Following the NFC in 2010-11, the provincial component overtook the federal component as it rose to 53.8%. In the next year, it was 50:50. It continued to decline further until 2014-15, which reflected creeping re-centralisation. Since then, there is a mixed pattern. Despite a higher share in the NFC taxes, the provincial share in total revenues fluctuates because of higher non-tax revenue of the Federal Government and poor mobilisation of provinces own revenue, except for GST on services.

6. ECONOMIC COORDINATION

The 18th Amendment has moved planning and economic coordination from the Federal Legislative List, Part I to Part II. Now Part II is neither exclusively Federal nor Provincial; it relates to the Federation as a whole and is, therefore, an area of joint responsibility. The Constitution provides for a special institution, the CCI to look after the affairs of the Federation. The CCI cannot perform this constitutional function with regard to planning and economic coordination unless it ‘exercise[s] supervision and control over related institutions.’ It should be obvious that the related institution in this case is the NEC. Planning, in the post-18th Amendment period, has to make a transition from centralisation to federalisation. By its very mandate, the NEC is an advisory body. It plans ‘for advising the Federal Government and the Provincial Governments.’ Economic and planning advice becomes binding once the CCI approves it. Chaired by the Prime Minister, the Federal and Provincial Governments have equal representation in the CCI. Decisions are taken by a majority rule. In case the Federal or Provincial Government is not satisfied, it may refer the matter to a joint sitting of the Parliament. A joint sitting may also issue directives to the CCI. In either case, the decision of the joint sitting is final.

After the 18th Amendment, two constitutionally mandated annual reports were submitted to the Parliament (GoP 2013c). The constitutional requirement is to present a report every year. According to the report for 2011-12, eight meetings of the CCI took place to consider matters relating to Federal List, Part II. However, no case related to planning by the Planning Commission or Planning and Development Division was on the agenda. In considering a non-agenda item, the CCI directed the Planning and Development Division to provide support in resolving issues related to the Thar Coal Project and the approval by ECNEC of Swat and Chitral hydel power projects sponsored by the Government of Khyber Pakhtunkhwa. Inter-Provincial Coordination Division acted as the secretariat of the CCI, which functions under the Federal Rules of Business. The main economic coordination body is the Economic Coordination Committee (ECC) functioning under the Rules of Business of the Federal Government. Thus, economic coordination business placed in Part II of the Federal List is fragmented, to say the least.

7. PROVINCIAL BORROWING

The NEC-CCI linkage and the CCI’s mandate to supervise and control related institutions find an implicit recognition with regard to provincial debt. Foreign credits play a significant part in the PSDP. The 18th Amendment permits provinces to borrow directly from donors as well as locally against the Provincial Consolidated Fund. The provinces now have the opportunity to supplement revenue resources by borrowing on terms negotiated independently of the Federal Government. This can lead to better terms from donors. In the past, foreign credits were passed on to the provinces under an on-lending

policy determined by the Federal Government. As for domestic loans, the experience of the provinces in opening their own banks had been less than prudent. The freedom to borrow was denied to the provinces given implications on monetary and debt management policy.

According to Tahir and Tahir (2012), provinces' power to borrow debt with sovereign guarantee, leads to expansion in public borrowing. The NEC was asked to provide guidelines for provincial borrowings. This is yet to be implemented. Both involvement of the NEC to specify conditions of borrowing and changes in the State Bank Act are necessary to ensure financial discipline and coordinated policymaking. Neither, however, has happened so far. In a case submitted by the Ministry of Finance and Revenue, the CCI directed the Finance Division and the Provincial Governments sought approval of the NEC to work out a proposal on the borrowing limits of the provinces as required by the 18th Amendment. Decisions of the NEC, thus, requires approval of the CCI, as planning and economic coordination is a matter related to Part II of the Federal List.

8. COMPLIANCE OF THE 18th AMENDMENT

This section assesses compliance of 18th Amendment in the institutional framework of planning and the mechanisms of economic coordination. NEC, the apex economic body, has been reconstituted in accordance with the provisions of the Amendment, as has been the CCI. Though with a slight delay, their annual reports have also been placed before the Parliament. However, the planning process and economic coordination has changed little. On the whole, most legal requirements have been met but the rules of the game, the norms and values of development planning and economic policymaking are reminiscent of the centralised regime in place for the past several decades. In practice, the NEC has been directing plans and the PSDP.

After the 18th Amendment, the NEC has a constitutionally stipulated composition, but it is still governed by the Federal Government Rules of Business, 1973. In terms of these Rules, the NEC is not a body of the Federation rather a committee of the Federal Cabinet. Cabinet Division is its Secretariat. Cases for decisions are moved through the Divisions of the Federal Government. There is no room for the Provincial Governments in these Rules. As required by the 18th Amendment, the Cabinet Division submitted to the Parliament two reports on the performance of the NEC pertaining to 2010-11 and 2011-12. Performance is taken to mean the number of meetings held, which in 2011-12 was only one against the required two. Again, it was the unavoidable pre-Budget meeting held to approve the Annual Plan and the PSDP. A special item on the agenda was the 'Implementation Plan for the Framework for Economic Growth', a document prepared by the Planning Commission without involving the provinces in the process (GoP 2013b). The reports, thus, reproduced the summaries of the detailed documents already placed

before the Parliament as part of the budget documents. No analysis was included on the observance of the Principles of Policy. Nor was there any comment on the newly inserted requirement to ensure balanced development and regional equity. Such analyses call for professional expertise. The present secretariat of the NEC, the Cabinet Division, lacks this capacity.

Under the NEC, there is an Executive Committee of the NEC, the so-called ECNEC. While the NEC approves annual, five year and perspective plans, the ECNEC approves development projects and programmes to achieve the objective of plans. On 22 September 2021, the Federal Government notified new Terms of Reference (ToRs) for the ECNEC. Two functions, always an oddity - cases for the grant of protection of indigenous industry and those involving the grant of licenses for exploration or exploitation of oil and other mineral resources or extension in the area of operation, were finally dropped from its purview (GoP 2019).

As pointed out before, this body is set up under the Rules of Business of the Federal Government as a Cabinet Committee. The Finance Minister is the Chairman and the membership of eight, including the Chairman, is equally divided between the Federal Government and the provinces. It may be recalled that the provinces have been given a majority in the NEC by the 18th Amendment. Among the special invitees of the ECNEC, five are from the Federal Government and four from the provinces. A special power of approving execution of schemes, in anticipation of the formal approval by the ECNEC, is enjoyed by the Chairman of the ECNEC. Cabinet Division is the Secretariat of the ECNEC as well while the Planning Commission provides technical input for the meetings. Before approaching ECNEC, all Federal schemes costing over PKR ten billion have to be appraised and cleared by the Central Development Working Party (CDWP), chaired by the Deputy Chairman of the Planning Commission with the overwhelming majority of members from the Federal Government. Each province has its own approval forum, the Provincial Development Working Party (PDWP) chaired by head of the Planning and Development Department/Board. Except for the irrigation sector, the PDWP has the power to sanction provincial schemes of up to PKR ten billion if they are completely self-financed. In case of cost exceeding the said limit, involvement of federal funding or external financing, the scheme also has to go through the CDWP/ECNEC process. This requirement, in the case of external financing, is inconsistent with Article 160 (4). A Concept Clearance Committee (CCC), under the Deputy Chairman of the Planning Commission, exists for the permission to negotiate with donors. The CCC operates in violation of the aforesaid Article. In a nutshell, the NEC-CCI linkage for planning and economic coordination is not yet fully operational.

9. RECOMMENDATIONS AND CONCLUSION

The implementation of the provisions of the 18th Amendment as well as the 7th NFC Award began with effect from the Fiscal Year 2010-11. In the first place, the Amendment expanded the number of subjects in the provincial sphere. Second, the role of the provinces increased in the institutional framework of planning for development. Third, the provinces had greater representation in the institutional framework for economic coordination. Fourth, the provinces were allowed to contract domestic and external debt. Fifth, although announced before the Amendment in bad sequencing, the 7th NFC supported the Amendment by providing additional resources to the provinces. Post-NFC, the provinces have a larger resource envelop than the Federal Government. In turn, the Amendment supports the NFC by making the Award irreversible and subject to regular Parliamentary oversight. According to the new Article (3A), ‘The share of the provinces in each Award of National Finance Commission shall not be less than the share given to the provinces in the previous Award.’ Similarly, the new Article (3B) requires that the ‘Federal Finance Minister and Provincial Finance Ministers shall monitor the implementation of the Award biannually and lay their reports before both the Houses of *Majlis-e-Shoora* (Parliament) and the Provincial Assemblies.’ As a result, provincial revenues are now greater than federal revenues. Finally, the development budget of the provinces is larger than the Federal Government.

Instead of moving in the Constitutional direction of devolution and decentralisation, some development initiatives of the Planning Commission and the moves to upgrade the existing mode of project approval point towards a re-centralisation tendency. Some settled issues are being reopened. Donors have been signalling that the 7th NFC has created a fiscal imbalance at the federal level. The International Monetary Fund (IMF’s) insistence that the CCI should endorse the target of fiscal deficit is interpreted as a pressure to call provinces to account.

Post-18th Amendment, provinces have not enhanced their capacity to plan and to implement. The greater mobilisation of provinces’ own resources has been neglected. In this regard, the Federal tendency to re-centralise and the provincial tendency to go slow on decentralisation does not bode well for regional equity and national cohesion. The message of the 18th Amendment is that the provinces should take charge of their own planning and development. This needs de-bureaucratisation and appropriate investment in human capital. A logical follow-up of the 18th Amendment is the re-consideration of the role of the centralised civil services. Some of these risks had been pointed out after the 18th Amendment and the 7th NFC were operationalised. Making up for the lack of requisite provincial capacity, loss of professional competence and institutional memory would take time. In the interim, service delivery could suffer (SBP 2011).

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Recently, the Federal Government tried to satisfy Article 154(3) of the Constitution to establish a permanent Secretariat of the CCI in place of the stop-gap arrangement made in the form of the Inter-Provincial Coordination Division. However, like the latter, this too will be a Federal Division with the difference that its secretary would report directly to the Prime Minister, who is the Chair of CCI. Planning Commission would continue to be centralised and prepare plans and appraise schemes for approval. However, the subject of national planning falls in Federal Legislative List, Part II. Instead of the Rules of Business of the Federal Government, the Rules of CCI apply to the NEC. Planning Commission is the institution related to the subject of planning and economic coordination. It has to be under the supervision and control of the CCI through the NEC. The letter and the spirit of the Constitution can be satisfied by:

1. making Planning Commission, in place of the Cabinet Division and the new Division, the Secretariat of the NEC as well as CCI; and
2. reducing the number of its members to five, one each from the Provinces and the Federal Government.

The Prime Minister chairs the NEC/CCI and there is no need for him/her to chair the Planning Commission. The Chairman should be appointed by the CCI to represent the Federation. Pakistan Institute of Development Economics (PIDE) is now a university under the administrative control of the Planning and Development Division. With Planning Commission moving to the CCI/NEC, the Planning and Development Division can continue to deal with development issues of the Federal Legislative List, Part I. PIDE can play the role of a think tank for the Planning and Development Division.

Finally, a serious lapse on part of the provinces is the failure to devolve power and authority to the local level. First, there were delays in enacting relevant laws. When enacted, the quantum of devolution was too little to make an impact, except in Khyber Pakhtunkhwa. Later, there was a curtailment of local functions even in the latter. After the legislation was passed, there was reluctance to hold local elections. The Supreme Court had to intervene to force elections on the Provincial Governments.

It must be understood that effective service delivery will remain a dream without fully functioning local governments. It is not just a question of devolving enough functions, but also of transferring funds and devolving the power to tax. Local Finance Commissions should be activated to share provincial resources and the collection of taxes such as on property should be left to the local governments. Furthermore:

1. There is a need to make the existing process of planning and economic coordination coherent, conflict free and inclusive by allowing CCI to function according to its design in the Constitution.
2. In place of the Cabinet Division, Planning Commission should act as the secretariat of NEC.

3. ECNEC should act as the Federation's body rather than being an agent of the Federal Government.
4. Local level governance should be given due recognition as the third tier of the Federation.

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Appendix 1: Concurrent Legislative List (Pre-18th Amendment)

1. Criminal law, including all matters included in the Pakistan Penal Code on the commencing day, but excluding offences against laws with respect to any of the matters specified in the Federal Legislative List and excluding the use of naval, military and air forces in aid of civil power.
2. Criminal procedure, including all matters included in the Code of Criminal procedure, on the commencing day.
3. Civil procedure including the law of limitation and all matters included in the Code of Civil Procedure on the commencing day; the recovery in a Province or the Federal Capital of claims in respect of taxes and other public demands, including arrears of land revenue and sums recoverable as such, arising, outside that province.
4. Evidence and oath; recognition of laws, public acts and records and judicial proceedings.
5. Marriage and divorce, infants, and minors; adoption.
6. Wills, intestacy, and succession, save as regards agricultural land.
7. Bankruptcy and insolvency, administrators-general and official trustees.
8. Arbitration.
9. Contracts, including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agricultural land.
10. Trust and trustees.
11. Transfer of property other than agricultural land, registration of deeds and documents.
12. Actionable wrongs, save in so far as included in laws with respect to any of the matters specified in the Federal Legislative List.
13. Removal of Prisoners and accused persons from one province to another Province.
14. Preventive detention for reasons connected with the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention.
15. Persons subject to preventive detention under Federal authority.
16. Measures to combat certain offences committed in connection with matters concerning the Federal and Provincial Governments and the establishment of a police force for that purpose.
17. Arms, firearms and ammunition.
18. Explosives.
19. Opium, so far as regards cultivation and manufacture.
20. Drugs and medicines.
21. Poisons and dangerous drugs.

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22. Prevention of the extension from one Province to another of infectious or contagious diseases or pests affecting men, animals, or plants.
23. Mental illness and mental retardation, including places for the reception or treatment of the mentally ill and mentally retarded.
24. Environmental pollution and ecology.
25. Population planning and social welfare.
26. Welfare of labour; conditions of labour, provident funds; employers' liability and workmen's compensation, health insurance including invalidity pensions, old age pensions.
27. Trade unions; industrial and labour disputes.
28. The setting-up and carrying on of labour exchanges, employment information bureaus and training establishments.
29. Boilers.
30. Regulation of labour and safety in mines, factories, and oil fields.
31. Unemployment insurance.
32. Shipping and navigation on inland waterways as regards mechanically propelled vessels, and the rule of the road on such waterways; carriage of passengers and goods on inland waterways.
33. Mechanically propelled vehicles.
34. Electricity.
35. Newspapers, books, and printing presses.
36. Evacuee property.
37. Ancient and historical monuments, archaeological sites and remains.
38. Curriculum, syllabus, planning, policy, centres of excellence and standards or education.
39. Islamic education.
40. Zakat
41. Production, censorship, and exhibition of cinematograph films.
42. Tourism.
43. Legal, medical, and other professions.
44. Fees in respect of any of the matters in this List, but not including fees taken in any court.
45. Inquiries and statistics for the purpose of any of the matters in this List.
46. Offences against laws with respect to any of the matters in this List: jurisdiction and powers of all courts except the Supreme Court, with respect to any of the matters in this List.
47. Matters incidental or ancillary to any matter enumerated in this List.

Source: Inter-Provincial Coordination n.d. 'Concurrent Legislative List', Government of Pakistan, <<http://www.ipc.gov.pk>> [Accessed 15 May 2022].