

Impact of 18th Constitutional Amendment to 1973 Constitution on Local Government System in Pakistan



Farhan Ali

PhD Scholar, Department of Political Science, Qurtuba University,
D.I.Khan Dr.farhanalibaloch@gmail.com

Dr Muhammad Zubair
Khan

Associate Professor of Political Science, Qurtuba University D.I.Khan

Abstract: *The 18th Constitutional Amendment to the 1973 Constitution of Pakistan represents a transformative milestone with profound implications for the country's local government system. This amendment, enacted in 2010, aimed to decentralize power from the federal government to provincial and local levels, promoting greater autonomy and strengthening democratic governance. This paper examines the multifaceted impact of the 18th Amendment on Pakistan's local government system, highlighting its legislative, administrative, and financial dimensions. By transferring significant authority to provincial governments, the amendment has facilitated more responsive and accountable local governance structures. However, the implementation process has faced numerous challenges, including political resistance, capacity constraints, and coordination issues among various levels of government. This study analyzes these complexities and assesses the extent to which the 18th Amendment has achieved its goals of enhancing local governance and empowering communities. Through a comprehensive review of legislative changes, administrative reforms, and financial allocations, this paper provides an in-depth understanding of the amendment's impact and its implications for the future of local government in Pakistan.*

Keywords: Amendment, Constitution, Decentralization, Basic Democracies, Adult franchise

Introduction

The local government system is regarded as the most effective for delivering services, promoting economic growth, increasing public participation, focusing on citizens' preferences, and recommending policies for local residents. In many countries, local government performance at the grassroots level meets people's expectations. However, in Pakistan, decentralization requires enhancement to create a more accountable administration. Local government authorities, with their superior local knowledge, are better equipped to address the needs of local individuals compared to provincial or national governments. Local governments offer opportunities to reduce the

dominance of elite groups in power and reshape the state to better serve the general populace (Zaidi, 2005). Overall, local governments can play a key role in achieving harmony among diverse communities living together both locally and nationally.

In a free and democratic world, participatory development is seen as a crucial factor in addressing the social and economic needs of states in general and nations in particular. Consequently, the concept of decentralization has become increasingly important and essential for developing countries, particularly when considering political initiatives for human development. In this context, the recognition of local governance or local government systems is

driven by the need to tackle political, social, and economic issues through local representation (Beall, 2005). However, the prevailing view regarding developing states like Pakistan is that local governments are vulnerable to challenges posed by the upper, more powerful tiers of state government. Consequently, the development of local government in Pakistan, a predominantly agro-based country, is fundamental to national progress. Additionally, the emphasis on the rural or local sector is often impeded by an overburdened institutional structure and a lack of sufficient resources, which hinder the implementation of local government reforms (Cheema, Khwaja & Qadir, 2006).

The local government system in Pakistan, as evidenced by its history, has consistently been neglected, sidelining public participation in the decision-making process. This approach has, to some extent, made the federal and provincial governments responsible, accountable, and responsive to public needs.

Ironically, although Pakistan has consistently adopted a democratic form of government, significant progress in local government reforms has predominantly occurred under military regimes, such as those of Ayub Khan, Zia ul Haq, and Pervez Musharraf. However, the full realization of devolution has never been achieved in Pakistan. This is partly due to the concentration of political power and authority and partly due to a lack of political will to transfer authority from the central government to the provincial and local levels (Shah, Khalid, and Shah, 2006).

It is important to note that Pakistan inherited its model of local governance from the British Parliamentary System, reflecting aspects of British colonial rule in the subcontinent. During that time, unelected institutions and non-representative elites managed governmental affairs. Consequently, the empowerment of local institutions has remained a fleeting phenomenon in Pakistan, a country frequently experiencing democratic crises (Afaq, 2007).

The 18th Constitutional Amendment, enacted in 2010, represents a landmark reform in the political and administrative landscape of

Pakistan. It was designed to decentralize power from the federal government to the provincial and local levels, thereby promoting greater autonomy and democratic governance. This amendment introduced significant changes to the 1973 Constitution of Pakistan, aiming to enhance the efficiency, accountability, and responsiveness of local governments (Kalia, 2016). The impact of this amendment on the local government system in Pakistan is profound, influencing legislative, administrative, and financial dimensions. This research paper explores the multifaceted effects of the 18th Amendment on Pakistan's local government system, examining how it has shaped governance structures, public service delivery, and local democracy. By analyzing the successes and challenges associated with the implementation of the 18th Amendment, this study aims to provide a comprehensive understanding of its implications for the future of local governance in Pakistan. Through an in-depth review of policy changes, case studies, and empirical data, this paper seeks to contribute to the broader discourse on decentralization and democratic consolidation in developing countries.

Literature gaps

Existing literature on the impact of the 18th Constitutional Amendment on Pakistan's local government system is limited in empirical studies and lacks regional analysis. There is insufficient exploration of practical implementation challenges and stakeholder perspectives. Comparative studies before and after the amendment are rare, and the long-term impact on financial autonomy and service delivery remains under-researched.

Literature Review

Following independence in 1947, local governments received minimal attention. The central authorities introduced limited local governance without holding elections (Ahmed, 2009), resulting in a weak local government system. General Ayub Khan later implemented a decentralized system and experimented with local governance, reviving and adapting the local government structures established by the

British colonialists. With the introduction of the new system, the Basic Democracies Ordinance of 1959 and the Municipal Administration Ordinance of 1960 were put into effect. On October 27, 1958, General Ayub Khan assumed the roles of Chief Martial Law Administrator and President of Pakistan, relieving Iskander Mirza from the presidency (Ullah & Hayat, 2018). He implemented a four-tier local bodies system featuring 80,000 elected basic democrats. This system established an Electoral College responsible for electing the president as well as members of the Central and Provincial Legislatures. The first elections under this system were held in January 1960, resulting in the election of 40,000 basic democrats in each province (both East and West) (Sarwat & Sohaib, 2021).

During Zulfikar Ali Bhutto's democratic government, two local government ordinances (1972 and 1975) were introduced, but he did not prioritize local government or hold elections for it. When General Zia ul Haq came to power on July 5, 1977, he implemented a new local government system in 1979. Three local government elections were held under his military regime (1979, 1983, and 1987), but local governments did not receive autonomy. From 1988 to 1999, local governments continued to be neglected during democratic administrations. On October 12, 1999, General Pervez Musharraf assumed power and introduced a new local government system under the Devolution Plan of 2001. In this system, the district government was the highest tier but lacked autonomy, and the relationship between local governments and the provincial governments remained problematic (Naseem et al., 2022).

Even after more than 70 years of independence, Pakistan continues to experiment with local government systems. The first three systems were established by non-democratic military regimes primarily to reinforce their own rule. Consequently, for politicians, these systems were viewed as remnants of dictatorship, intended to diminish the power of national and provincial leaders. As a result, civilian governments promptly dismantled these systems

(Zaidi & Khalid, 2022).

Electoral Systems of Local Governments in Pakistan: A Comparison of Three Models (1959, 1979, 2000) (Batoool, 2014):

BDs 1959-68

1. Non-party based
2. Adult franchise
3. Direct elections only at the Union Council (UC) level; otherwise, indirect elections
4. Bureaucratic involvement
5. Provincial intervention
6. No constitutional protection
7. Separate electorate for minorities
8. Women excluded
9. No proportional representation for ethnic and linguistic groups
10. Single Non-Transferable Vote (SNTV)/First-Past-The-Post (FPTP)

LSGs 1979-99

1. Non-party based
2. Adult franchise
3. Direct elections only at the UC level; otherwise, indirect elections
4. Apparent removal of bureaucratic influence, though bureaucracy remained intact
5. Provincial intervention
6. No constitutional protection
7. Separate electorate for minorities
8. Women excluded
9. No proportional representation for ethnic and linguistic groups
10. SNTV/FPTP

LGO 2000-2008

1. Non-party based
2. Adult franchise (age lowered from 21 to 18)
3. Direct elections at all levels

4. No bureaucratic role; District Coordination Officers (DCOs) were answerable to elected Nazims
5. No provincial government intervention
6. No constitutional protection
7. Separate electorate for minorities
8. 33% of seats reserved for women
9. No proportional representation for ethnic and linguistic groups
10. SNTV/FPTP

Methodology

This study employs a comparative analysis approach to assess the impact of the 18th Constitutional Amendment on the local government system in Pakistan. The research integrates qualitative data to provide a comprehensive analysis of the changes and their implications.

Data Collection

A review of legislative documents, including the 18th Constitutional Amendment and relevant local government laws before and after the amendment, has been conducted. Additionally, historical records, government reports, and academic articles have been analyzed to understand the evolution of the local government system. Selected case studies of local governments before and after the amendment have been examined to assess practical impacts and implementation challenges.

Data Analysis

Interview transcripts and case study narratives have been analyzed thematically to identify common themes and insights related to the effects of the constitutional changes. Legislative documents and secondary sources have been analyzed for content to understand the scope and intent of the 18th Constitutional Amendment and its implementation.

Limitations

The study's findings may be influenced by the geographical scope and the availability of data, which may limit generalizability.

18th Constitutional Amendment

The Eighteenth Amendment stands as the largest, most unique, and comprehensive reform package since the passage of the 1973 Constitution in Pakistan's legal history. It was unanimously supported by all political parties in Parliament. Following motions adopted by the National Assembly on April 10, 2009, and the Senate on April 29, 2009, the Speaker of the National Assembly formed a Special Committee on Constitutional Reforms comprising 27 members. Of these, only nine members were from the three main parties—Pakistan People's Party, Pakistan Muslim League-N, and Pakistan Muslim League-Q—while the remaining 18 members represented ethnic parties from smaller provinces and religious parties. Senator Mian Raza Rabbani of the Pakistan People's Party was elected Chairman of the Committee on June 25, 2009. The Committee dedicated 385 hours to its deliberations and received 982 proposals from the public on various matters, including provincial autonomy. The Committee submitted its 133-page amendment report in April 2010. The National Assembly passed the amendment with an overwhelming majority of 292 votes on April 8, 2010, and the Senate passed it with 90 votes on April 15, 2010, without any opposition. The President signed the amendment on April 19, 2010, and it was promulgated the following day. The Eighteenth Amendment overhauled 102 Articles of the 1973 Constitution (Majeed et al., 2021).

The addition of Article 140 (A) in the 18th Amendment clearly stipulates: "Each Province shall, by law, establish a local government system and devolve political, administrative, and financial responsibility and authority to the elected representatives of the local governments." This provision created legislative, institutional, planning, and policy frameworks for provinces, allowing them to tailor the governance system to local contexts for improved service delivery at the grassroots level (Kakar, 2017).

Impact of 18th Constitutional Amendment on Local Government in Pakistan

In the past decade, Pakistan has undergone two

significant rounds of local government reforms. The first round (2010–2013) followed the 18th Constitutional Amendment of 2010, leading to the introduction of new local government Acts in all four provinces. The second, more recent wave of reforms came after the Pakistan Tehreek-e-Insaf (PTI) party won the 2018 elections at both the federal and provincial levels, further altering the multi-level government structure in Punjab and Khyber Pakhtunkhwa (KP) (Janjua & Rohdewohld, 2019).

Following the notable 18th Constitutional Amendment, the 1973 Constitution now includes provisions for local government and a decentralized system of governance:

- a) The State shall promote local government institutions composed of elected representatives from the respective areas, with special representation for peasants, workers, and women.
- b) The State shall encourage social justice and the eradication of social evils by decentralizing government administration to expedite the disposal of business and meet public needs efficiently.
- c) Each Province shall, by law, establish a local government system, devolving political, administrative, and financial responsibilities and authority to the elected representatives of the local governments and conducting local elections (Khaliq, 2012).

The 18th Amendment of 2010 addressed 102 Articles of the 1973 Constitution. The revised Article 140 (A) stipulates: “Each Province shall, by law, establish a local government system and devolve political, administrative and financial responsibility and authority to the elected representatives of the local governments. Elections to the local governments shall be held

by the Election Commission of Pakistan” (Eighteenth Amendment Act, 2010). This amendment ensured provincial autonomy and enhanced the functions and powers of the provinces. It was anticipated that the provinces would empower local governments under this amendment.

Following the 18th Amendment, the provinces introduced various acts:

- The Punjab Local Government (Amendment) Act (Act XVIII) of 2013, amended up to May 4, 2019.
- The Khyber Pakhtunkhwa Local Government (Amendment) Act, 2018, amended up to April 29, 2019.
- The Sindh Local Government Act (Amendment) 2017, amended up to February 20, 2019.
- The Balochistan Local Government Act 2010, amended up to March 4, 2015.

The tenure and structure of local governments in the four provinces differed according to these acts. Despite the enhanced powers and functions for the provinces under the 18th Amendment, there appears to be reluctance from the provinces to empower local governments (Naseem et al., 2022).

Under the 18th Amendment, seventeen federal ministries were abolished, with their powers and functions transferred to the provinces. This significantly enhanced the provinces' authority, and it was expected that they would also delegate some powers to the local governments. Local government elections were conducted in three phases in Sindh, Balochistan, and Punjab. However, in Khyber Pakhtunkhwa, all local government elections were held in a single phase.

Local Governments' Elections

Province	Election Dates
Balochistan	Phase I: December 7, 2013 Phase II: May 29, 2014 Phase III: December 31, 2014
Sindh	Phase I: October 31, 2015 Phase II: November 19, 2015 Phase III: December 5, 2015

Punjab	Phase I: October 31, 2015 Phase II: November 19, 2015 Phase III: December 5, 2015
KPK	May 30, 2015

Source: Comparative Analysis of Local Government Laws in Pakistan, 8. <https://pildat.org/wpcontent/uploads/2019/04/ComparativeAnalysisofLocalGovernmentLawsinPakistan.pdf>

The Local Government Acts of 2013 in the four provinces of Pakistan do not clearly define the rationale for local governments. Khyber Pakhtunkhwa's legislation merely references Articles 32 and 140A of the Constitution. The Punjab Local Government Act of 2013 ties the establishment of local governments to the promotion of good governance, effective service delivery, and transparent decision-making through institutionalized public participation, though this is only mentioned in the Preamble. Similarly, Sindh's Local Government Act of 2013 uses Punjab's formulation in its Preamble. The Preamble of Balochistan's Local Government Act of 2010 also refers to Articles 32 and 140A but adds that local governments facilitate the expeditious disposal of business to meet public convenience and requirements (Rohdewohld, 2023).

Conclusion

From the discussion above, it is evident that the 18th Amendment was a pivotal event in Pakistan's constitutional history. It not only restored the parliamentary nature of the Constitution by returning powers and functions to the Prime Minister and his Cabinet, previously taken by military presidents over the past four decades, but also significantly enhanced fundamental rights, strengthened institutions, and provided constitutional protection to the local government system in Pakistan. This amendment required provincial governments to conduct local government elections and devolve administrative, legislative, and fiscal powers to local representatives. Consequently, all provinces enacted local government acts through their provincial assemblies and implemented these acts faithfully.

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