

Role of Khyber Pakhtunkhwa Government (2013-2022) in Establishing of Provincial Higher Education Commission; A critical analysis

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ABSTRACT

This paper explores how 18th constitutional amendment in the constitution of Pakistan made over in 2010, got a lengthy transitional phase of implementation. The reaction of the provincial government in implementing the 18th constitutional amendments is diverse. The government of Sindh and Baluchistan has established the Provincial HEC while Khyber Pakhtunkhwa and Punjab reacted inversely. In this paper qualitative data have been collected from ex and current Vice chancellors and officials of HED and members of the 18th amendment committee. The main objective of the paper was to analyze the role of the Khyber Pakhtunkhwa Government to establish provincial HEC. The data was analyzed qualitatively through Brown and Clark's thematic analysis model. The data concluded that (i) Khyber Pakhtunkhwa government may keep their political difference aside regarding PHEC (ii) Khyber Pakhtunkhwa government may show the political will to establish their own PHEC like Sindh and Punjab (iii) Khyber Pakhtunkhwa government may utilize the services of the local intelligentsia for PHEC (iv) Khyber Pakhtunkhwa government may frame its educational policy keeping in view local needs and international standards.

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Introduction

The Parliament of Pakistan introduced 18th Amendment in the Constitution of 1973. The 18th Amendment cleaned undemocratic additions and deletions from the Constitution of 1973. The 18th Amendment was concrete step towards connection with democracy, civil rights, compensation to deprived classes, empowering parliament, presidential powers curtailed and abolition of concurrent list (Hussain & Kokab, 2012).

1.1 Connection with Democracy

The 18th Amendment strengthen democratic system in Pakistan. The 18th Amendment repealed undemocratic features from 17th Amendment. The powers like imposing emergency, dissolution of Parliament and ban on Civil rights were an important tool in the clutches of military rulers. So, the 18th Amendment abolished undemocratic and centralize features from 1973 Constitution (Tharani, 2010).

1.2 Civil Rights

The 18th Amendment provided Constitutional safeguard to the civil rights of masses in Pakistan. For the first time the Constitution of 1973 included Article 19A and Article 25 A respectively. Every citizen has right of information in all matters of public importance. Article 25 A, state will ensure education to all students having age 05 to 16 (Malik, 2010; Hussain & Kokab, 2012).

1.3 Compensation to Deprived Classes

The deprived classes were compensated in 18th Amendment. The backward areas would be equalized with respect to facilities and developments. The minorities were given representation in Senate upper house of Parliament (Akhtar, 2010).

1.4 Empowering Parliament

The 18th Amendment empowered Parliament in many ways. The CCI was made accountable before the Parliament. The National Economic Council NEC was bound to submit annual report to the Parliament. The parliament has to decide regarding the imposition of emergency. The duration of bill with respect to consideration of President of Pakistan, was reduced from 30 days to 10 days. This has to decide to hold referendum in the country. Before 18th Amendment Parliament only highlight procedure of referendum (Rana, 2020).

1.5 Presidential Powers Curtailed

According to 18th Amendment the powers of President have been curtailed. The Prime Minister would be chief executive of the government. The prime minister would be leader of the house and could dissolve national assembly. The chief executive could appoint, shuffle and remove cabinet minister. All appointments like Chief of Army Staff, Naval and Air Staffs and Chairman of Public Service Commission would be made on the advice of Prime Minister (Rana, 2020).

1.7 Abolition of Concurrent List and Decentralizing Responsibility and Authority

The Amendment abolished Concurrent List which included 47 items. Education- including Higher Education became provincial subjects. The coming portion concerned with federal and provincial relation with respect to 18th Amendment. So, brief detail regarding decentralizing responsibility and authority discussed.

The framer of 1973 Constitution promised that Concurrent List would be abolished after ten years. However, the Centralist mindset (elected and unelected) refused to fulfill promise of decentralization. Thus, the political parties believing on decentralization materialized abolished Concurrent List through 18th Amendment. The Concurrent List included 47 items. So, electricity and medical transferred to Federal Legislative List Part 1 and Boiler shifted to Federal Legislative List Part 11. The remaining 44 items decentralized to provinces. Thus, 17th Federal Ministries including Higher Education came under the domain of provinces. The provinces were empowered to frame own laws, rules and policies for devolved ministries (Waseem, 2010; Rabbani, 2011).

1.7 Alteration in Federal Legislative List

The Constitution of 1973 had Federal Legislative List FLL in two parts. The Part 1 and 11 contained 59 and 08 items respectively. The 18th Amendment altered both parts of FLL. The modified FLL part 1 included 51 items. Whereas, Part 11 contained 18 items. Thus, FLL part 11 falls under shared responsibilities of both Center and Provinces (Khan, Shazad & Khan 2016; Rana 2020).

1.8 Enhanced Provincial Role

The role of provinces was strengthened in governance. The National Economic Council NEC consisted Prime Minister, Chief Ministers of four provinces. According to Article 157 Federal Government is bound to consult province before constructing hydroelectric power station in the concern province. The share of Provinces increased from 40 percent to 57 % in national divisible pool. The taxes included in divisible pool provided by Federal Government to provinces through National Finance Commission (Naseer, 2007; Khalid, 2013).

1.9 THE IMPLEMENTATION CHALLENGE

The 18th Amendment empowered Provinces to bring devolved Federal Ministries into Provincial domain. However, the pro center mindset resist decentralization due loss of control over fiscal, physical and human resources. The issue of provincial capacity building was also raised. The decentralization was halt. For instance, function performed by dissolved ministries were 301. Function assigned to other ministries were 207. Function devolved to provinces were 94. So, less than 1/3 function devolved to provinces. The following section deal with education- HE with respect 18 Amendment and challenges/ hurdles between Center and Provinces.

The 18th Amendment introduced Article 25 A, which made education free and compulsory for all children between the ages of 5- 16. The Provincial Governments of Sindh and Punjab enacted necessary legislation. Whereas, the provinces like Khyber Pakhtunkhwa and Baluchistan resist due central tendencies. The abolition of Concurrent List empowered provinces to legislate and have a say in Curriculum, Syllabus, Policy, Centre of Excellence Standard of Education and Islamic Education (Rana, 2020).

After the passage of 18th Amendment Sindh and Punjab decentralized Higher Education and established own PHEC in 2013 and 2015 respectively. However, there were certain obstacles in implementation (Jamal,2021). The issue of Higher Education and establishment of PHEC was raised in Prime Minister Office, functional committee and CCI. The Ex- Federal Minister and former Chairperson Dr.Atta-Ur-Rahman and Marvi Memon appealed in Sindh High Court for stay order against the establishment of PHEC (Khan, 2015).

The objection raised regarding provincial resources, funds and structure for PHEC. According to Article 146, the provinces have the right to receive own shares from center. The issue was

discussed in senate upper house of Parliament. The senate referred to functional committee for report. The report of functional committee stated that 18th Amendment empowered provinces to establish PHEC. The province would amend HEC ordinance 2002. The provinces will frame policy for HE. The center would transfer shares/resources to provinces (Hussain & Kokab, 2012).

The chairperson of 18th Constitutional Committee Senator Main Raza Rabbani cleared the ambiguity on the question of devolution of HE and PHEC during the meeting of CCI. The chairperson stated that implementation commission of 18th Amendment decided to devolve HEC. So, in the light of 18th Amendment provincial governments have the responsibility to get their financial shares from Central government. The provincial government extend financial support, technical resources and enact necessary legislation for the establishment of PHEC. Currently, 80% universities come under the administrative control of Provinces (Rabbani 2011; Hussain & Kokab, 2012).

1.10 RESEARCH OBJECTIVES

1. To identify the reasons for the prolonged transitional duration of the implementation process of the 18th constitutional amendment in the constitution of Pakistan.
2. To assess the potential of the Khyber Pakhtunkhwa government in policy formulation of Higher Education particularly in establishing a provincial HEC.

1.11 RESEARCH QUESTIONS

1. Why transitional duration of the implementation process of the 18th constitutional amendment is so long?
2. What are the potentials of the Khyber Pakhtunkhwa government in policy formulation for establishing provincial Higher Education Commission?

1.12 STATEMENT OF THE RESEARCH PROBLEM

The research will highlight the 18th Constitutional Amendment with reference to Higher Education in Khyber Pakhtunkhwa. Through the 18th Amendment, eighteen federal departments were

transferred to provinces. It was a step towards provincial autonomy. Education also became a provincial subject. Certain administrative, structural, and institutional changes were made in Higher Education. The main purpose of this study is to investigate different issues and problems raised after the 18th Constitutional Amendment in the implementation phase of Higher education of Khyber Pakhtunkhwa. After this amendment the Higher Education of the province came under a transitional period therefore Positive and negative consequences of the 18th Amendment will be studied to get a clear picture. Insight into causes for the protracted implementation phase of the Amendment will also be sought.

1.13 SIGNIFICANCE OF THE STUDY

After the unanimous approval of the 18th Amendment in the 1973 constitution of Pakistan on 20th April 2010, it was hoped that provinces would show better functioning in the areas of HE. The additional funds released to Khyber Pakhtunkhwa spent on education, showed extraordinary development in the infrastructure at all levels of education. However, there are still some issues and problems that needed consideration for true implementation including the curriculum, textbook board, PHEC, equivalency and standardization, Centers of Excellences, the role of Inter Board Committee of Chairman, Directorate of Curriculum and Teacher Education, Policy formulation and a huge gap of implementation of Article 25 A. Article 25A of the Amendment called for equality among the citizen of Pakistan, with the right to education between the age of five up to 16 years. It was emphasized that education must be “free and compulsory”.

2.1 DATA ANALYSIS

The questions asked from our key respondents about the “**Role of Khyber Pakhtunkhwa government in establishing of Provincial Higher Education Commission**” was analyzed thematically.

Respondents tried to trace causes of non-establishment of Provincial Higher Education Commission (PHEC). They linked it to political ideologies of governments. One respondent commented that ANP government established universities and they were committed to establish PHEC. However, the current government having a different political standpoint opted for establishment of HERA and HED. By these steps, they managed to halt establishment of PHEC

The teaching faculty elaborated that currently serving government need to own the responsibility of management, monitoring and evaluation of higher education. They took the initiative of monitoring for universities through higher education. It was opposed by the universities on the ground that it is interfering in the autonomy of universities. The efforts of provincial governments are in pipeline regarding management, monitoring and evaluation with respect to universities.

Brown and Clark’s thematic analysis

Theme; Efforts of provincial government regarding the management, monitoring and evaluation of Higher Education in the province	Theme; Surveillance	Autonomy of university should not be interfered.
Governemnt can manage and monitor universities.	Mechanism of monitoring may set by consultation	Earlier the attempts of monitoring were resisted by universities.

Efforts of provincial government regarding the management, monitoring and evaluation of Higher Education in the province

The respondents accepted that government has the right to monitor universities. The monitoring mechanism may be set in such a manner that it does not violate the autonomy of universities. One of the respondents stated that higher education attempted to monitor universities. Universities resisted that. They deem this act as inference in the autonomy of universities.

The establishment of (PHEC) is necessary for the development of courses and other activities related to universities. Some of the respondents opted that after the 18th amendment the Directorate of Curriculum for Teacher Education has the authority to form its own curricula for the need of the province. So, the role of (DCTE) is evident regarding development of courses and teacher training at the elementary level. Similarly, the provincial government through (HED) developed courses for colleges.

Brown and Clark's thematic analysis

Theme; potentials of provincial government in term of teachers, educationists, and development of courses with respect to Higher Education Department	Theme; Potential of current government	Human and other resources are available in KP
Eminent researchers and educationists are present in KP	Their services may be utilized for PHEC	PHEC will train university teachers and develop courses for universities.
Local experts developed curriculum for elementary schools and colleges	DCTE developed curriculum for elementary schools	HED developed curriculum for colleges

Potentials of provincial government regarding development of courses

The respondents felt satisfaction over professional resource for curriculum development in KP. They added that they have eminent researchers and educationists. Our local experts had already

designed courses for elementary schools and colleges. Development of university curriculum is not a big deal. Government needs to utilize their experience and expertise.

The respondents pointed out that Khyber Pakhtunkhwa has all the potential to pragmatise the 18th amendment. The current government lack resource and lack of political will to establish (PHEC). The National Financial Commission meeting shall be conducted on regular basis. The provinces may be given their share on regular basis. So, the establishment of (PHEC) will become easy.

Brown and Clark's thematic analysis

Theme; Provincial government inabilities/lack/short resources/potentials to establish provincial Higher Education Commission	Theme; Shortcoming on government part	Political will is required to establish PHEC
Government lacks political will	If the meeting of NFC held on regular basis, provinces will get their due share	Establishment of PHEC is possible if govt show political will

Provincial government capability and potentials to establish provincial Higher Education Commission

The respondents affirmed that resources are available to the province. There are minor bottlenecks which can be removed easily. Government must show firmness to resolve and establish PHEC. If they do so, the benefits of 18th amendment will reach to common masses.

The officials of Higher Education Commission replied that (HEC) provided 40% budget to universities. The universities also demand budget for developmental purposes through planning and development. Universities also receive research grants from (HEC). Some of the respondents told that provincial government on the demand of universities, issued budget for developmental and non-developmental purposes. Similarly, the provincial government also assist universities through grant and aids. HEC also provide funds for faculty development program.

Brown and Clark's thematic analysis

Theme; About the process of funding to universities	Theme; Higher Education Commission Officials opinion	Developmental and Non developmental funds
HEC provide 40 % budget to universities.	HEC also provide funds for developmental purposes through P& D	HEC also provide funding for research projects and faculty development program.

Respondents form HEC**About the process of funding to universities**

The HEC officials briefed that we provide 40% budget to universities. They specified that we provide funds for developmental purposes through planning and Development (P&D). In addition to it, the HEC also provides funding for research projects. They added that HEC also provide funds for faculty development programs. It can be derived that HEC plays an important role in funding to universities.

The officials of (HEC) told that provincial government approved funds for universities. The approved fund is processed through Higher Education Department for necessary documentation. There is a link between Chancellor and (HED) secretary. So, (HED) approved funds for developmental purpose and research projects. (HED) is a coordinative body for universities in Khyber Pakhtunkhwa and Government of KP.

Brown and Clark's thematic analysis

Theme; role of provincial (HED) in funding to Universities	Theme; Higher Education Department and Funding's	Developmental, salaries, recurring and research projects
Approved fund is processed through HED	HED is for documentation and record of funds to universities	Has role in funding
Secretary HED links chancellor/ chief minister and universities	Approval of grants/ aid is granted through HED	HED plays the role of bridge between chancellor and universities

HED is administrative body.	It issues instruction to universities	No role in funding.
HED is administrative body	It plays role in research project only.	Provision of funds for research project only

About provincial Higher Education Department in funding to Universities

Variation was observed regarding the role of (HED) in funding to universities. Some of the respondents affirmed that (HED) has role in funding by linking universities and chancellors. While other were of the view that (HED) has role in funding research projects only. While one of the VCs pointed that (HED) has no role in funding. It's just issues instructions and guidelines.

Most of the (HEC) officials agreed that due to the transitional phase of 18th constitutional amendment, (HEC) imposed ban on the provision of grants. The current government also executed cut on the budget of (HEC). Similarly, (HEC) has observation on the utilization of universities budget.

The officials of (HEC) pointed out that funds and grants reduced due to lack of proper utilization of universities funds, lack of capacity building, slow moving projects and lack of proper monitoring. While some of the researched told that number of universities increased, and allocation of budget was not increased. Similarly, the current federal government imposed financial cut on department in order to overcome on the financial crisis of the country.

Brown and Clark's thematic analysis

Theme; Reasons for the reduction of grants by Higher Education Commission to universities	Theme; Decrease in share of federal government after 18 th amendment	Plethora of reasons for fund reduction
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Lack of proper funds utilization, lack of capacity building, non-completion of projects and poor monitoring	Increase in number of universities of is also reason of fund reduction	Federal government financial cut also reduced funds.
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Reasons for the reduction of grants by Higher Education Commission to universities

The HEC officials very meticulously pointed out reasons for funds reductions. They highlighted certain factors related to universities i.e. improper funds utilization in universities, lack of capacity building and non-completion of projects in universities. They also consider increase in the number of universities is a cause of funds reduction to universities, in addition to it, the financial cut by the federal government was also cited a reason of funds reduction.

The officials of (HEC) explained that increase in fee is approved by the statutory governing bodies of universities. It is true that increase in fee has impact on enrollment of students. Some of the researched highlighted that some of the universities has maintained their fee. However, the same universities increased number of seats which affect the standard of education.

Brown and Clark's thematic analysis

Theme; The negative impact of increase in fee on the enrolment of Higher Education.	Theme; Fee hike	Universities decide to increase fee.
Universities increase fee through their statutory bodies	Some universities increased seats and do not increase fee	Fee increase has impact on enrolment.

The negative impact of increase in fee on the enrolment of Higher Education.

The participants stated that HEC has no role in fee increase of universities. Universities through their statutory bodies make their own decisions. Some universities do not increase fee rather they increase the number of seats. They agreed that increase in fee may negatively affect enrollment in universities.

The officials of (HEC) said that centralist bureaucracy in federal departments, officials of (HEC) and some VCs oppose the decentralization drive. They argued that it will increase chances of corruption. Some of the researched told that (HEC) believe on self- reservation. So, central (HEC) is not ready to share its powers with the provinces in the light of provincial autonomy.

Brown and Clark's thematic analysis

Theme; Reasons of tug of war between provinces and Central Higher Education Commission	Theme; Higher Education Officials observation	Centralist mindset is one of main reason of tug of war.
Federal govt and HEC are not willing to share/ devolve powers to provinces	Some VCs also oppose decentralization of education.	It is feared that decentralization will increase chances of corruption

Reasons of tug of war between provinces and Central Higher Education Commission

All the respondents agreed that centralist mindset is the main cause of tug of war between HEC and provinces. One of the respondents stated that some VCs do not favor decentralization. They argued that if education is decentralized, chances of corruption and malpractices will increase. Federal government has vested interest and hence it is not ready to decentralize education to provinces.

The officials of (HEC) elucidated that transition phase is incomplete. So, the National Educational Policy (NEP) 2017 is legal and applicable. The (PHEC) has been established in Sindh and Punjab. Whereas, Khyber Pakhtunkhwa and Baluchistan are unable to establish (PHEC) in their respective

provinces. Some of the respondents told that after the 18th amendment the (NEP) 2017 is illegal and can be challenged.

Brown and Clark's thematic analysis

Theme; Status of National Educational Policy 2017 after the 18 th amendment the federal government does not have the jurisdiction	Theme; National Education Policy 2017	Legal or illegal documents
As HEC is not fully devolved so NEP is legal	Some believe NEP is illegal after 18 th constitutional amendment	Legality and illegality are subject to interpretation.

3.1 CONCLUSION

After the 18th Amendment, education was decentralized, and provinces were empowered to establish their provincial higher education commission. However, the process did not go smoothly, and federal and provincial governments confronted each other on authority. Provinces like Punjab and Sindh showed political will and implemented the 18th amendment in true spirit. They established provincial HECs of their own. The case of Khyber Pakhtunkhwa is different, they have not made any concrete steps for the establishment of PHEC. It signifies that the current Khyber Pakhtunkhwa government is not interested to decentralize higher education in Khyber Pakhtunkhwa.

References

- Akhtar, W. (2012). *Understanding Madrassah Education and its Impacts. A Case Study of Chach (Attock) region in Pakistan* (Doctoral dissertation, University of Bradford).
- Jamal, H. (2021). Educational Status of Pakistan: Pre and Post 18th Amendment Scenario.
- Hasnain, Z. (2010). Devolution, accountability, and service delivery in Pakistan. *The Pakistan Development Review*, 129-152.
- Khalid, I. (2013). Politics of Federalism in Pakistan: Problems and Prospects. *South Asian Studies*, 28(1), 199.
- Khalid, S. M., & Khan, M. F. (2006). Pakistan: The state of education. *The Muslim World*, 96(2), 305-322.
- Khan, H. (2010). *Constitutional and Political History of Pakistan*, Oxford University Press, Karachi.
- Kundi, M. A., & Jahangir, A. M. (2002). Federalism in Pakistan: Issues and Adjustment. *Asian Affairs*, 23-36.
- The Sindh University' Laws (Amendment) Act, SINDH ACT NO. XLIII OF 2013
- The University of Karachi Act 1972. Sindh Act No. XXV of 1972
- Muhammad, S. (2013). *Comparative Analysis Of Phd Dissertations On Education In Pakistan* (Doctoral dissertation, University of Peshawar, Pakistan).
- Rana, M. A. (2020). Decentralization Experience in Pakistan: The 18th Constitutional Amendment. *Asian Journal of Management Cases*, 17(1), 61-84.
- Rabbani, M. R. (2011). *A biography of Pakistani federalism: unity in diversity*. Leo Books.
- Zafar, S. M. (2010). *Note of Reiteration. Report of the parliamentary Committee on Constitutional Reforms*, D-I.

Zahra, A., & Jadoon, M. Z. I. (2016). Autonomy of public agencies in Pakistan: does structure matter? *International Journal of Public Sector Management*. 29(6) 1.10

Zubair, D. S. S., Jabeen, N., Salman, D. Y., Zahid, M., & Irfan, D. S. (2019). Governance Context of Higher Education Sector of Pakistan. *Pakistan Vision (2019) Vol, 20(1)*. 11-17

