18th Constitutional Amendment: A milestone in Constitutional History of Pakistan

NFC Award 2009: A step towards fiscal federalism
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DISCLAIMER
Every effort has been made to ensure the accuracy of contents in this newsletter. The Centre for Civic Education Pakistan does not accept responsibility of any omission, as it is not deliberate. Nevertheless we will appreciate provision of accurate information to improve the next issue.
Ideally Constitution of a country epitomizes hopes and aspirations of a nation and serves as a social contract between the citizens and the state. Authored in the spirit of history, culture, political experience and character of a populace, Constitution of a nation is the product of design based on privileged political choices. Constitutions are living/organic documents and can be amended according to political and economic context of the time.

18th Constitutional Amendment:
A milestone in Constitutional History of Pakistan
The Committee in addition to its Terms of Reference, while examining the various provisions of the Constitution, 1973, kept in view the following amongst other criteria:-

(1) Transparency in system.
(2) Minimizing individual discretion.
(3) Strengthening Parliament and Provincial Assemblies.
(4) Provincial Autonomy.
(5) Independence of the Judiciary.
(6) Further strengthening fundamental rights.
(7) The question of merit.
(8) Good governance.
(9) Strengthening of Institutions.

The Committee invited suggestions/proposals and amendments from the public at large through the press and received a total number of 982 recommendations/proposals and amendments through this process.

The Committee asked its members, who represented various political parties to submit their proposals for amendments to the Constitution and also took up certain Private Member's Bills pertaining to amendments in the Constitution, introduced in the Senate of Pakistan. The total number of such amendments was 91.

The Committee held a total number of 77 meetings, with each meeting at an average lasting 5 hours, thus the Committee has spent about 385 hours during its deliberations.

The passage of 18th Constitutional Amendment Bill was the moment many political leaders and civic activists of Pakistan had struggled for decades. President, Asif Ali Zardari signed the 18th Constitutional Amendment Bill on April 19, 2010 that was earlier passed unanimously by both houses of the Parliament. This development can be regarded as a historic milestone in the constitutional history of Pakistan, entering in a new era of democratic federalism.
The 26-member Parliamentary Committee on Constitutional Reforms, representing 14 political parties and one member from Federally Administered Tribal Area (FATA), took over nine months to develop a consensus draft bill, although different parties have added separate notes of reiterations to outline their individual party positions.

This consensus is a remarkable development. Politicians had demonstrated similar maturity by showing extraordinary flexibility for consensus building during the formulation of the 1973 Constitution.

The framers of the 1973 Constitution envisioned Pakistan as a federal parliamentary democracy. Unfortunately, dictators exploited the Constitution to gain power and centralized their authority by inserting amendments which altered the basic design of the constitution from federal parliamentary to quasi presidential. The changes made in the Constitution by two military dictators through the 8th and 17th Amendments not only weakened the democratic institutions but also deprived the provinces of their legitimate constitutional rights.

The 18th amendment has restored the federal and parliamentary spirit of the 1973 constitution. Further, most of the undemocratic constitutional changes inserted during the authoritarian regimes of Zia and Musharraf, who ruled Pakistan for nearly 20 years during the past three decades, are removed.

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The 18th Amendment Bill was the result of a consensus draft bill developed over nine months by a 26-member Parliamentary Committee representing 14 political parties and one member from Federally Administered Tribal Area (FATA). Different parties have added separate notes of reiterations to outline their individual party positions. This consensus is a remarkable development. Politicians had demonstrated similar maturity by showing extraordinary flexibility for consensus building during the formulation of the 1973 Constitution.

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The 18th amendment’s key aspects:

Identity: The amendment gives identity to former NWFP as the province has been renamed as Khyber Pakhtunkhwa.

Expands Fundamental Human Rights: The 18th amendment expands the scope of fundamental human rights given in the constitution. The amendment affirms the Right to fair trial and due process, Right to information and Right to education for the citizens of Pakistan.

Empowered Parliament: Approval of landmark 18th amendment restores a genuine parliamentary system in the country. The amendment transfers key presidential powers to the Parliament and establishes its supremacy. The amendment not only empowers Parliament but also restores the powers which has been made presidential in substance after the 17th amendment. It removes presidential power to circumvent the normal legislative process and limit the amount of time the president may consider bills passed by the parliament before approving them. The 18th amendment removes the Presidential power to unilaterally dismiss the parliament. It requires the President to consult with the Prime Minister regarding all appointments. It removes limits on prime ministers serving more than two terms to strengthen the Parliament.
Judicial Appointments: Judicial appointment procedures have been one of the most contentious parts of the amendment. President and Prime Minister have no direct role in judicial appointments after the 18th amendment. An independent Judicial Commission will propose nominees and a special parliamentary committee comprised of government and the opposition will confirm them.

Balance of Powers between Centre and Provinces: The 18th amendment takes important steps toward devolution of authority and enhancing provincial autonomy. It scraps the Concurrent Legislative List of subjects and empowers the provinces. The amendment also expands the scope of Council of Common Interests (CCI). The CCI will become a powerful constitutional body comprised of representatives of centre and provincial government to decide key matters. The National Economic Council (NEC) has been reformed with an advisory role to review overall economic condition of the country and to advise the Federal and Provincial government to formulate plans in this regard.

National Finance Commission Award: Another important step is the distribution of national revenues that is protected under this amendment and provinces’ share can not be reduced beyond that given in the previous National Finance Commission award.
## Mapping discourse on Constitutional Reforms-2010

### Broad National Consensus:
- Federal Parliamentary Character
- Not to touch the Islamic provisions
- Cleansing aberrations inserted by military regimes (Gen. Zia, Gen. Musharraf)

### Matrix

<table>
<thead>
<tr>
<th>Issues</th>
<th>Broad stands across the political spectrum</th>
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</thead>
<tbody>
<tr>
<td>New Social Contract in the light of 1940 resolution i.e. new constitution</td>
<td>Maxi...</td>
</tr>
<tr>
<td>Provincial control over natural resources</td>
<td>Expand the scope of fundamental rights. Enforceable Principles of Policy</td>
</tr>
<tr>
<td>Respect Diversity (Acknowledging identity e.g. Khyber Pakhtunkhwa, languages)</td>
<td>Secular character of the Constitution</td>
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<tr>
<td>Informal support for Charter of Democracy</td>
<td>Independence of judiciary</td>
</tr>
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<td></td>
<td>Restoration of original Constitution of 1973</td>
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<td></td>
<td>Supremacy of the Parliament (Balance of power)</td>
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<tr>
<td></td>
<td>Broad consensus on Charter of Democracy</td>
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<td></td>
<td>More Islamization</td>
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</tbody>
</table>

### Parties

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<thead>
<tr>
<th>Parties</th>
<th>ANP, MQM, NP, PKMAP, BNP-A, JWP, PPP-S</th>
<th>NGOs, Bar Associations etc</th>
<th>PPP, PML-N, PML-Q, NPP</th>
<th>JUI-F, JI</th>
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### Strategy

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<tr>
<th>Strategy</th>
<th>Proposals to the Committee &amp; Media</th>
<th>Members of Committee</th>
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<tr>
<th>Ideological orientation</th>
<th>Nationalists</th>
<th>Left</th>
<th>Civil Society (Left-Centre-Right)</th>
<th>Centre</th>
<th>Right/ religious</th>
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**Post 18th amendment discourse:**

- Call for creation of new provinces (In the wake of protests in Hazara (presently part of Khyber Pakhtunkhwa), call for creating Seraiki province (South Punjab), Bahawalpur province and recognizing Pakhtunkhwa areas in Balochistan etc).
- Debate over the Supremacy of the Parliament (creator), the Constitution (creation) and the Judiciary (creation with the context of trichotomy of power).
- Supreme Court Bar Association and some leading lawyers have questioned the powers of the Parliament to amend the Constitution and have challenged the new mechanism for the appointment of judges.
<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
<th>Description</th>
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<tbody>
<tr>
<td>1970</td>
<td>First Constitution</td>
<td>Independence from British rule</td>
</tr>
<tr>
<td>1973</td>
<td>Second Constitution</td>
<td>Reorganization of provinces and districts</td>
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<tr>
<td>1985</td>
<td>Third Constitution</td>
<td>Major amendments to the constitution</td>
</tr>
<tr>
<td>1993</td>
<td>Fourth Constitution</td>
<td>Further amendments and changes</td>
</tr>
<tr>
<td>2000</td>
<td>Fifth Constitution</td>
<td>Constitutional amendments, including devolution of powers</td>
</tr>
<tr>
<td>2010</td>
<td>Sixth Constitution</td>
<td>Major constitutional changes, including greater provincial autonomy</td>
</tr>
<tr>
<td>2018</td>
<td>Seventh Constitution</td>
<td>Latest constitutional amendments, focusing on democratic reforms</td>
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Twenty-one leading Pakistanis from the country’s four provinces assembled for two days near Katmandu in Nepal and engaged in wide-ranging discussions on the recent amendments to the country’s 1973 Constitution that restored considerable powers to the provinces, thereby making Pakistan more federal.

The participants included members of Pakistan’s Constitutional Reform Committee and National Assembly, as well as representatives of provincial legislatures, civil society, universities and the media. The title of the May 1-2 event was National Conference on the Pakistan Constitutional Reforms Process, Prospects for Inclusive Federalism.

The 18th amendment to the constitution was passed unanimously by Pakistan’s National Assembly on April 8. It restores a parliamentary system to Pakistan, increases the autonomy and responsibilities of its four provinces; and revises the way judges are appointed, securing their independence. The discussions touched on numerous points including the diversity of Pakistan and the structure of the state.

The most significant changes to the federal structure of Pakistan are the removal of the lengthy list of concurrent powers of the central and provincial governments and the transfer of almost all the concurrent matters to the exclusive jurisdiction of the provinces. (Concurrent powers are responsibilities that are assigned to two orders of government, which can lead to overlap and administrative confusion.) There are now heightened expectations of the Council of Common Interests, an inter-governmental body which is intended to provide a space for Pakistani stakeholders take stock of country’s sweeping constitutional changes
Pakistan's federalism has been a topic of debate and discussion. The conference participants are representing various stakeholders and are in favor of a more robust framework to ensure the smooth functioning of the federal system. The conference aims to discuss the challenges and opportunities presented by federalism in Pakistan and to find solutions that can strengthen the state's democratic governance. The participants include government officials, politicians, academicians, and representatives from civil society organizations.

A group photo of participants of the conference.
provincial governments to participate in the formulation of policy on a list of matters that fall under the jurisdiction of the federal government but which inevitably concern provinces.

Two conference sessions dealt with the political geography of Pakistan and identity politics, including whether Pakistan should retain its four-province structure or be divided into more provinces. The issue to recognize regional languages as national languages was also aired.

The focus on most of the sessions was on the new relationship between the federal government and the provinces, which led to questions on the adequacy of the tax base of the provinces in light of their expanded responsibilities. The discussion of fiscal federalism threw a spotlight on the magnitude of the modified role of provinces and the importance of adequate intergovernmental arrangements.

In the closing session, participants were cautioned about giving in to the pressures of implementing the transfer powers in too rapid a fashion.

As a result of the conference, participants increased their understanding of federalism and the attendees also realized the benefits of understanding the comparative experiences of other federations such as India and Canada and devolved countries such as South Africa, Spain and other. Participants also increased their awareness of the work that still is to be done.

The conference was organized by the Forum of Federations and its partner, the Center for Civic Education Pakistan.

Technical experts of the discussions were Dr. Katharine Adeney, senior lecturer in Politics, University of Sheffield, United Kingdom; Prof. Christina Murray, constitutional law, University of Cape Town, South Africa; Prof. Rohan Edrisinha, constitutional law, Colombo University, Sri Lanka; Mr. Marc Lemieux, Senior Program Manager Forum of Federations; Dr. Pervez Tahir, FCC University, Lahore; Dr. Syed Jaffar Ahmed, University of Karachi; and Mr. I.A. Rehman, Human Rights Commission of Pakistan.
A meeting of National Policy Advisory Group (NPAG) was held to discuss and debate Constitutional Reforms in Pakistan on April 8, 2010 at Islamabad. The NPAG is a platform of leading experts including political leaders, academics and civil society activists from across the country interested in an informed dialogue and focused discussion on issues vital for strengthening federalism in Pakistan. Similar advisory groups have also been constituted in all the four provinces to solicit views of provincial stakeholders and widen the scope of dialogue on analyzing various federal options. Earlier, meetings of the provincial advisory groups were held in respective provincial capitals to take stock of the Constitution review process.
A large number of people attended the meeting, with representation from members of the Parliamentary Committee on Constitutional Reforms, current and former Parliamentarians, leaders and members of major political parties, representatives of civil society groups, diplomats, advisors to chief ministers of Balochistan and Sindh, and distinguished academics from across the country.

Federations are not institutions which are carved once in stone and remain like that. That’s not true even in the most established and the most advanced federations. Federations are living institutional bodies.

The discussants underpinned the product and promise of constitutional reform process as well as the overall performance of the Constitutional Reforms Committee in particular the strong will to restore and strengthen the federal features of the 1973 constitution; to abolish the Concurrent List; to transfer part of the revenues of the General Sales Tax (GST) to provinces; to strengthen intergovernmental institutions and mechanisms; and to reform the Senate competences. And most importantly, the North-West Frontier Province shall be renamed into Khyber-Pakhtunkhwa.

While acknowledging the draft Bill prepared by the Parliamentary Committee on Constitutional Reforms as a historic step forward, participants also highlighted various unsettled issues, calling for an additional effort to go beyond the package unanimously proposed by the Committee. Comprehensive Senate reforms, complete transference of some taxing powers, the language issue and status of the Federally Administered Tribal Areas (FATA) were also discussed.

Dr. Werner Thut, Vice President, Forum of Federations, concluded the event with his remarks highlighting the culture of federalism, which means the respect of minorities, the spirit of compromise and sharing. Inter-provincial harmony and a truly
democratic electoral system are very close to the spirit of culture of federalism. Part of the culture of federalism is another point that the identity and education has to be generated or created by local government instead by the ruling class at the center very far away.

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The successful examples show a federation has a strong center and has strong provinces. There are mechanisms of interaction between the center and the provinces. Having strong provinces does not necessarily mean that the federation is strong.

Dr. Werner Thut, Vice President of Forum of Federations, during his visit to Pakistan had individual meeting with important officials and experts from different walk of life including:

Senator Syed Nayyar Bukhari,
Leader of the House, Senate of Pakistan
Senator S.M Zafar,
Member, Constitutional Reforms Committee
Dr. Gulfaraz Ahmad Khan,
Member, 7th National Finance Commission Award
Mr. Muhammad Zahid Mahmood,
Secretary Ministry of Inter-provincial Coordination
Mr. Amir Khan Guraya,
Swiss Development Cooperation
Dr. Tariq Rehman,
Director National Institute of Pakistan Studies, Quaid-i-Azam University Islamabad
Mr. Siddiq-ul-Farooq,
Joint Secretary, Pakistan Muslim League (N)
Ch. Manzoor Ahmad,
Incharge Central Secretariat, Pakistan Peoples Party

Dr. Thut discussed various federalism related issues and offered Forum’s support to strengthen culture and institutions related to federalism in Pakistan.
Provincial Policy Advisory Groups

Provincial Policy Advisory Groups held meetings on Constitutional Reforms in Pakistan in four provincial capitals to supplement the constitutional review by the Parliamentary Committee on Constitutional Reforms (PCCR). The objective of the meetings was to identify and discuss the problems relating to federalism in Pakistan and suggest possible constitutional remedies. The topic was privileged as it emerged as the first priority during provincial assessment and secondly these meetings coincided with the work of the Parliamentary Committee on Constitutional Reforms.

SINDH

The Sindh Policy Advisory Group held meeting in Karachi on February 24, 2010. The group consisted of politicians, academicians, lawyers, NGO workers

(From right) Mr. Jami Chandio speaking at a meeting of Sindh Policy Advisory Group on Federalism, Zafarullah Khan, Executive Director CCEP, Sharmila Farooqi, Advisor to Chief Minister Sindh, Dr. Jaffer Ahmad, University of Karachi.
Pakistani Federalism

The general consensus was that Pakistan has become a structurally imbalanced federation after 1971. One province dominates all the state institutions and enjoys an absolute majority in the parliament over the other three provinces. This concentration of power in the executive branch has emerged as a major source of conflict in Pakistan. Senate can be empowered to ensure equal numerical representation and relative influence of provinces.

Participants highlighted the inherent flaws in the 1973 Constitution which are in contradiction with the true spirit of a federation. Amendments in the past have further distorted it by diluting its federal character. The constitution should be reverted to its true federal form and character or to frame an entirely new constitution, formulate on the lines of federations like Australia and Germany and also reflect the Lahore Resolution 1940. It was suggested to abolish the Concurrent Legislative List, giving administrative and fiscal autonomy to the provinces; revival of the Council of Common Interest to consider it a true representative of the federating units to resolve inter-provincial conflicts.
Political parties advocated for a more powerful prime minister, parity between powers of the Senate and the National Assembly, giving identity to N.W.F.P as Pakhtunkhwa, more autonomy and more resources to the provinces, and reframing of the foreign policy according to the wishes and aspirations of all federating units. Political Leaders suggested redrawing provincial boundaries on ethno-linguistic basis and to rotate the election of the President and the Prime Minister among all federating units. Participants also called for educational reforms to recognise and promote the Pashto, Balochi, Punjabi, Sindhi and Seraiki as national languages.
The Punjab Policy Advisory Group on Federalism met on March 10, 2010 in Lahore to engage experts and interested stakeholders from different walks of life on constitutional reforms issues in order to and evolve possible set of shared recommendations and desired amendments.

The discussion revolved around imperatives for constitutional reforms and prioritizing possible amendments. It was agreed that federal and parliamentary character of the constitution should be fully restored. There was a general consensus also on the question of provincial autonomy but with some differences on quantum of autonomy. Political parties mainly focused on the division of powers between the presidency and the prime minister and the issue of provincial autonomy. The representatives of religious minorities demanded the abolition of what they described as religiously discriminatory clauses of the constitution. Some participants asserted the need for making a new constitution.
A meeting of the Khyber Pakhtunkhwa Policy Advisory Group on Federalism was held on March 16, 2010 at Peshawar. Participants including members of the provincial assembly, representatives of political parties, civil society and academia attended the meeting. The participants lamented the mutilation of 1973 constitution by various actors, both civil and military, and stressed the need to restore unaltered 1973 Constitution. The need for a new social contract keeping in view the Pakistan Resolution 1940 was also advocated. Participants were mutually agreed over federal and parliamentary character of the constitution, increase in quantum of provincial autonomy and enhancing powers of the Senate including in fiscal matters. Participants also stressed the independence of judiciary and parliamentary oversight in appointment of judges. A constitutional court to resolve disputes between federal and other units and abolition of Federal Sharia Court was also suggested.

Participants advocated to rename the province and proposed to recognise the regional languages as national languages by amending Article 251 of constitution. Changing current constitutional status of Federally Administered Tribal Areas (FATA) was discussed in detail. Islamic provisions and Objective Resolution, presently part of the preamble, into the constitution were also criticized by participants.
Before embarking on various activities to strengthen federalism in Pakistan, the Forum of Federations and Centre for Civic Education Pakistan conducted four provincial assessment meetings in Lahore, Karachi, Quetta and Islamabad (for Khyber-Pakhtunkhwa). These in-camera sessions involved experts from various fields to discuss prioritize topics for future activities. The participants deliberated the challenges to Pakistani federalism and evolved consensus on selected themes to address them.

### Priorities to Strengthen Federalism in Pakistan

1. **Constitutional Reforms**  
   - Restoring the federal spirit of the constitution, creation of new provinces, abolition of concurrent list

2. **Fiscal Federalism**  
   - Democratic National Finance Commission, resource distribution, ownership of natural resources, fiscal autonomy, taxation/revenue collection

3. **Diversity**  
   - Cultural diversity, languages, identity, democracy, education, pluralism

4. **Council of Common Interest**  
   - Reforms to strengthen its role, making it an effective conflicts resolution platform among the provinces

5. **Senate Reforms**  
   - Senate reforms to strengthen the Parliament, Senate with fiscal powers

6. **Water Sharing**

7. **Administrative Reforms**  
   - Capacity of provincial services (bureaucracy), local government
A meeting of Urdu Language Expert Committee was held in Islamabad on June 12, 2010 under the banner of Centre for Civic Education Pakistan and Forum of Federations. The objective of the meeting was to gather a group of intellectuals to translate and review Urdu translation of books on different aspects of Federalism to ascertain and certify the English text is correctly captured in Urdu language. The committee also finalized and drafted a comprehensive and refined glossary of federalism related words in Urdu. The exercise could be described as the beginning of an effort to indigenize federalism related body of knowledge and promote scholarship in the field with Pakistani context.

Participants of the meeting: Zafarullah Khan, Dr Jaffar Ahmed, Dr Khalil Ahmed, Jami Chandio, Emmanuel Khursheed, Fauzia Shaheen, Amjad Bhatti, Shafqat Aziz, Ahmed Saleem, Noreen Haider, Hassnain Ghayoor, Mazhar Arif
The 7th National Finance Commission award has been appreciated by all sections of society at national and international level. It has been considered as a victory of democracy and provincial partners. Political experts have acknowledged the efforts of Federal Government to bring all units at a consensus after a long time period. Economists have considered it a foundation for “Fiscal Federalism” in Pakistan.
Overall, the 7th NFC award is historic because it has eliminated a deadlock of approximately 13 years in discussion to bring out positive and solid change within federal and provincial revenue distribution. Credit goes to the federal and provincial governments who played a pivotal role to create an environment of trust and showed accommodative flexibility. This is a rare example of mutual understanding and adjustment of all units of a state. Federal government sacrificed a major chunk of its resources in favour of provinces and evolved new criteria for resource distribution. The selection of Gawadar for the initial signing of the NFC Award was symbolic to show solidarity with the Baloch people who suffered a lot during last dictatorial regime.

The seventh NFC award will provide fair and large share of resources to the provinces and experts term NFC a great leap forward to fiscal autonomy of provinces. However, it is now obligation of provinces to use these resources with financial discipline to improve the lives of their people.

The resource distribution has been contentious in Pakistan between the federal government and the provinces. For the first time in the history of Pakistan, federal government has moved away from the unsatisfactory single criteria of population for the division of resources among the provinces, to a multi-criteria award that includes poverty/backwardness, revenue collection and generation and inverse population density. This time the center and the provinces have shown a fair apportioning while addressing Balochistan has been guaranteed a minimum award and Khyber Pakhtunkhwa, carrying extraordinary burden of war on terror.
NFC award has introduced a significant new dimension for resource distribution to the satisfaction of all units of a federation. Under the 7th NFC, stakeholders have agreed to increase the share of provinces in the divisible poll to 56% in the first year of NFC and to 57.5 percent in the remaining years of the award from the current level of 47.5%. Stakeholders have also agreed to reduce collection charges to just 1% from the existing level.

Province wise distribution of population and inverse population density is estimated on the base of data obtained Pakistan statistical Year Book 2008 published by Federal Bureau of Statistics, Islamabad.

Revenue Sharing Formula for 7th NFC 2009

<table>
<thead>
<tr>
<th>Indicators</th>
<th>weight</th>
<th>Punjab</th>
<th>Sindh</th>
<th>Khyber-Pakhtunkhwa</th>
<th>Balochistan</th>
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<tbody>
<tr>
<td>Population share (SBP estimates)</td>
<td>82.0</td>
<td>57.36</td>
<td>23.71</td>
<td>13.82</td>
<td>5.11</td>
</tr>
<tr>
<td>Poverty/ backwardness</td>
<td>10.3</td>
<td>23.16</td>
<td>23.41</td>
<td>27.82</td>
<td>25.61</td>
</tr>
<tr>
<td>Revenue generation/ collection</td>
<td>5.0</td>
<td>44.0</td>
<td>50.0</td>
<td>5.0</td>
<td>1.0</td>
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<tr>
<td>Inverse population density (SBP estimates)</td>
<td>2.7</td>
<td>4.34</td>
<td>7.21</td>
<td>6.54</td>
<td>81.92</td>
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<tr>
<td>Total share</td>
<td>100</td>
<td>51.74</td>
<td>24.55</td>
<td>14.62</td>
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### 7th NFC Award and Revenue Share Calculation

<table>
<thead>
<tr>
<th>Province</th>
<th>Population Share</th>
<th>Poverty Backwardness</th>
<th>Revenue Generation</th>
<th>Inverse Population Density</th>
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</tr>
<tr>
<td>Balochistan</td>
<td>5.11</td>
<td>25.61</td>
</tr>
</tbody>
</table>

*Province wise distribution of population and inverse population density is estimated on the base of data obtained Pakistan statistical Year Book 2008 published by Federal Bureau of Statistics, Islamabad.*
of 5% which will increase the actual transfers to the provinces from the divisible pool. It is indeed the first NFC award with a new national spirit to accommodate the demands of smaller units of federation.

The seventh NFC award will provide fair and large share of resources to the provinces and experts term NFC a great leap forward to fiscal autonomy of provinces. However, it is now obligation of provinces to use these resources with financial discipline to improve the lives of their people.

**Highlights of the 7th NFC Award:**

- Federal and Provincial Governments developed a consensus.
- The new award would come into effect from fiscal year 2010-2011.
- Population to be given 82% weightage, poverty 10.3%, revenue collection 5%(2.5% revenue generation, 2.5% revenue collection), and area 2.7%
- The provincial share of the divisible pool would increase from the present 47.5% to 56% in the first year of NFC and 57.5% in the remaining years of the award.
- As for inter-provincial sharing of the divisible pool, it would be made on the basis of multiple criteria formula and their respective weight as agreed upon are population, poverty/backwardness, revenue (generation/collection), and inverse population density. Consequently, under the new formula Punjab would get 51.74% from the divisible pool, Sindh 24.55%, Khyber Pakhtunkhwa 14.62% and Balochistan 9.09%.
- Punjab would give up 1.27%, Sindh 0.39% and Khyber Pakhtunkhwa 0.26% while Balochistan has gained.
- In monetary terms the award translates into Rs. 471 billion for Punjab, Rs. 223 billion for Sindh, Rs. 133 billion for Khyber Pakhtunkhwa and Rs.83 billion for Balochistan. These are the projections for FY 2010-2011 and based on 56% share.
- For the remaining years of the new award based on provincial share of 57.5%, Punjab would receive
Rs. 938 billion, Sindh Rs.445 billion, Khyber Pakhtunkhwa Rs. 265 billion and Balochistan Rs.165 billion. At present Punjab is receiving 419 billion, Sindh 197 billion, Khyber Pakhtunkhwa Rs. 118 billion and Balochistan Rs. 53 billion.

- Sindh would receive an additional transfer of Rs. 6 billion from the Federal Government which is equivalent to 0.66% of the provincial pool. The Commission also decided to devolve sales tax on the services to the provincial level.

- The federal and Provincial Governments pledged commitment to bear all expenditures incurred by Khyber Pakhtunkhwa Government on the war on terror.

- Thus, as a gesture of support by all provinces and the Federation 1% of the total divisible pool has been earmarked for Khyber Pakhtunkhwa as an additional resource for war on terror during the award period. This would be equivalent to 1.83% of the provincial pool.

National Finance Commission is constituted under Article 160(1) of the 1973 constitution and proposed to be held at the intervals of five years. Its members are Federal Finance Minister (Chairman), Provincial Finance Ministers and other concerning experts which the President may appoint after consultation with provincial Governors [Constitution of Pakistan (1973)]. With the adoption of 18th amendment according to the article 160(3-A) the share of the provinces in each award of NFC shall not be less than the share given to the provinces in previous award.

Gawadar, Balochistan: National Finance Commission Award ceremony, Prime Minister Yousuf Raza Gilani, Provincial Chief Ministers and the then Federal Finance Minister Mr. Shoukat Tareen

ایس ایف سی کی تشکیل 1973 کے دستور کی آرتبکل (1) (16) کی نتجہ کی گئی چوہ پارچ سال کی وقوع سے اس کا انعقاد تجویز کرنہ ہے اس کے اراکین پیم وفاقی وزارت خزانہ (سربراہ) صوبائی وزرائ خزانہ اور وو دونسیماہرین شامل ہیں جنہوں صوبائی گورنر کی مشورے سے مقرر کر سکتا ہے۔ دستور پاکستان (1973) [18] ویس ترمیم کی منظوری کے بعد آرتبکل (3) (A-160) کی رو سے ایس ایف سی پورڈ مین صوبائی کا حاصل سی اس سے گزشتہ ایوارڈ مین صوبائی کو ملنے اور حاصل سی اس کی تھیم کا حاکم رہی۔ کیم حاکم رہی۔
The NWFP Assembly adopted a piece of legislation that allows dissolution of local councils and replacement of nazims with administrators.

Demand to redraw provincial boundaries and make a new province in southern part of Punjab was raised in the Punjab Assembly by Pakistan Muslim League (Functional).

The National Assemblies’ Standing Committee on Inter-Provincial Coordination unanimously decided to suggest the government for putting Council of Common Interest (CCI) and National Economic Council (NEC) secretaries under the ministry of Inter-Provincial Coordination (IPC).

Muttahida Qaumi Movement (MQM) and the Pakistan Peoples Party (PPP) settled all matters pertaining to local bodies’ elections and agreed to replace the sitting nazims with administrators.

Awami National Party proposed three names for NWFP, Pakhtunkhwa, Afghanistan and Pakhtunistan.

PML-N demanded to rename NWFP after Indus River, known as Abaseen and Neelab in the frontier province. Awami National Party, had already suggested three names, blamed PML-N for unnecessarily blocking the renaming process.

A resolution was presented in the Punjab Assembly by PML-Q asking the provincial government to address concerns of Sindh about Chashma-Jehlum link canal while Sindh Assembly in ongoing session demanded Punjab to scrap a hydro power project on Chashma-Jhelum Link Canal.

The Senates’ Standing Committee on local government and rural development recommended re-introduction of the commissionerate system with some amendments to ensure transparency.

Sindh Chief Minister requested President and Prime Minister to convene a meeting of Inter-Provincial Committee to settle dispute over water between Sindh and Punjab.
MARCH 2010
• President Asif Ali Zardari reconstituted Council of Common Interest (CCI) on the advice of Prime Minister, Yousuf Raza Gilani to resolve issues between the provinces in a better way.
• The Parliamentary Committee on Constitutional Reforms constituted a seven members sub-committee to resolve issues related to provincial autonomy.
• President Asif Ali Zardari signed the 7th National Finance Commission (NFC) award for distribution of resources among the centre and the provinces for five years.

APRIL 2010
• Senate and National Assembly approved landmark constitutional 18th amendment bill to empower parliament and provinces.
• President Asif Ali Zardari signed the 18th Constitutional Amendment Bill.
• Bill to revive the Islamabad High Court was passed in the light of the 18th constitutional amendment

MAY 2010
• Prime Minister formed a nine-member commission to oversee the process of implementation of the 18th amendment headed by Senator Raza Rabbani.
• Balochistan provincial assembly unanimously passed the Balochistan Local Government Bill 2010 under which elections for local councils would be held on a non-party basis within one year.
• Chief Justice Supreme Court constituted a full court comprising all 17 judges to define and determine the petitions challenged the 18th constitutional amendment.

JUNE 2010
• First post National Finance Commission and 18th Amendment budget was presented.
• The ministry of finance decided to stop using the term of “Value Added Tax” because of strong opposition from various quarters and instead impose an upgrade version of general sales tax from Oct. 2010.
• A newly launched political party of tribesmen demanded of the government to declare Federally Administered Tribal Areas as a separate province.
Pakistan has been a federal state since its creation following Partition in 1947, though this has been interrupted by several periods of military rule. There are four provinces, plus the Federally Administered Tribal Areas (FATA), Gilgit-Baltistan region and a federal capital territory. A succession of military and weak civilian administrations battled over national power, resulting in local government with a mainly poor record of service delivery and control over law and order. Cultural, linguistic and other differences between provinces, and enduring conflict over the allocation of financial and natural resources persisted.

To address the challenges caused by the disconnection, or poor connections, between the central government and the provincial governments, and the absence of information about federalism, the Forum of Federations is facilitating a two-half year program to enhance dialogue between the central and provincial governments by increasing the capacity of decision-makers, including political parties, central and provincial civil servants, civil society leaders and the media, to evaluate and analyze options for the creation of a stronger federal system based on international best practices.

To contribute to strengthening of federal democratic governance in Pakistan, the Forum of Federations, in collaboration with the Centre for Civic Education Pakistan (CCE), has launched a program to work with the government, political parties and civil society to promote a better understanding of the values and practices of federalism as well as help in the consideration of potential reforms to federal institutions and practices in Pakistan. The program is designed to help contribute to strengthening of democratic governance through sharing of information and knowledge among experts and practitioners such as elected officials, civil servants, politicians, academics, journalists, civil society leaders, and others.
Program Objectives:

• To increase the ability of Pakistan’s federal government leaders and stakeholders, and provincial leaders and stakeholders, to discuss, develop, evaluate and analyse federal options,
• To expand the ability of Pakistani civil society leaders to lead informed discussions on federalism,
• To broaden networks and partnerships, within Pakistan and between Pakistan and the outside world, foster the exchange of experiences and expertise in federal forms of governance.
• To create and make accessible in local language a broad, comparative, relevant body of knowledge on federal governance for Pakistani government institutions and civil society.

About implementing organizations:

The Forum of Federations is an international nongovernmental organization based in Ottawa, Canada, which seeks to enhance democratic federal governance worldwide. It engages in programs to develop best practices in federal states and in countries interested in adopting, of discussing, federalism. The Forum maintains close relationships at the international, national and sub-national levels and with think tanks and other NGO and INGOs. The Forum’s work is based on its global network of expert individuals and institutions, its publications, and its development assistance programs which provide technical assistance to individuals and organizations in developing countries interested in pursuing federalism related programs.

http://www.forumfed.org

The Centre for Civic Education Pakistan is an independent educational institution that works to cultivate civic culture. The Centre is not for profit and non-partisan initiative.

The Centre undertakes policy research, offers training courses and facilitates debate and dialogue. Its programs focus on fundamental rights and spirit of the Constitution, democratic development, tradition and institutions in Pakistan.

These efforts are aimed at encouraging critical and creative ways of thinking and stimulating civic activism to promote pluralism, rule of law and good governance.

http://www.civiceducation.org
These papers are available on the website of Forum of Federations and can be downloaded. Please visit the website to access the documents:


The Balochistan Package:
Redefining Federalism in Pakistan
By Dr Rasul Bakhsh Rais

Concurrent and Federal List - Fourth Schedule of 1973 Pakistan Constitution
Integration of FATA into NWFP
By Shakeel Kakakhel

The Special Parliamentary Committee on Constitutional Reforms and the Concurrent List
By Raja M. Ali Saleem

The Gilgit-Baltistan Reforms 2009
By Altaf Hussain

1973 Constitution and Recent Political Developments
Amir Khan Goraya

For these publications contact Centre for Civic Education contact@civiceducation.org