**18th Constitutional Amendment**

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1. The 18th Amendment has **restored the federal and parliamentary spirit** of the 1973 Constitution.

2. Most of **the undemocratic constitutional changes** inserted during authoritarian regimes of Zia and Musharaf (including 17th Amendment) have been removed.

3. The amendment renames the former **NWFP as Khyber Pakhtunkhawa** in recognition of its ethnic identity.

4. The 18th Amendment takes important steps towards **devolution of authority** and enhancing **provincial autonomy**. It has **scrapped the Concurrent Legislative List** of subjects and those subjects with few exceptions have been transferred to the provinces. The amendment also **expands the scope of the Council of Common Interests (CCI**). The CCI will become a powerful constitutional body comprised of representatives of centre and provincial governments 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 governments to formulate plans in this regard. Another important step is the **distribution of national revenues that is protected by the National Finance Commission under this amendment and provinces’ share cannot be reduced beyond that given in the previous National Finance Commission award.**

5. The definition of **“high treason”** has been expanded in Article 6. Henceforth, an act of suspending the constitution or holding it in abeyance or any attempt to do so shall also be considered high treason. It has also been added to the article that such **act of high treason cannot now be validated by the Supreme Court or a High Court**. This amendment is likely to discourage future military takeovers in Pakistan

6. The number of **Fundamental Rights in the constitution has been increased**. These are the right of **fair trial (Article 10A**), the **right to information (Article 19A**) and the right to **education (Article 25A).** It is now the responsibility of the state to provide free and compulsory education to all children from age 5 to 16 years in such manner as may be determined by law.

7. Article 17 has been amended so as to **do away with, amongst other things, intra political party elections.** This appears to be a **negative change** which favours only senior leadership of political parties.

8. To safeguard against discrimination in services, a provision has been made that under representation of any class or area in the services of Pakistan is to be redressed by an Act of Parliament.

9. The **role of the Senate has been considerably enhanced**. The annual report on implementation of Principles of Policy is to be presented before the Senate also. Unlike the previous position, now the President cannot promulgate an Ordinance while the Senate is in session. The number of days that the Senate may take to give its recommendations on money bills has been increased from seven (7) to fourteen (14). The Prime Minister and his/her Cabinet will now be collectively responsible both to the National Assembly and the Senate. The number of Senate Members has been increased from 100 to 104 by adding four seats for non- Muslims, one from each province. The number of compulsory working days for the Senate has also been increased from 90 to 110.

10. The Amendment has **transferred key Presidential powers to the Parliament** and established its supremacy. The President’s discretionary powers to dissolve the National Assembly or to refer a question to a Referendum have been removed. To appoint the governors, the services chiefs and the Chairman Federal Public Service Commission the advice of the Prime Minister has been made binding for the President. Time limits have been fixed for the President to act on the advice given to him by the Prime Minister and his cabinet. The position and powers of the Governors in the provinces have also been reduced to that of President in the Federation. According to the amendments made in Article 90, the executive Authority of the federation shall not now vest in the President but be exercised in the name of the President by the federal government comprising the Prime Minister and Federal Ministers. The Prime Minister shall be the Chief Executive. Rules of Business shall be made by the federal government and not the President.

11. In **Articles 62 and 63** relating to qualifications and disqualifications for elections to the Parliament and the Provincial Assembly, there are **some positive and some negative changes**. Earlier a person was not qualified if he had been convicted for an offence involving moral turpitude or giving false evidence. This has been removed. This is not a good change since it clashes with the Islamic spirit of the constitution. On the positive side, in place of Musharraf era lifetime bans, time limits for disqualifications, i.e., five years from date of release in case of jail terms, five years from date of dismissal from public service, two years from date of compulsory retirement, have been reintroduced.

12. In **Article 63-A relating to defection**, the main changes are that disqualification for defection will be triggered on a reference made by Head of a Party (by whatever name called) in place of Head of a Parliamentary Party, and the Speaker or Presiding Officer will not be able to ‘sit on’ i.e., delay the reference.

13. The restriction on a person to be a **third-time Prime Minister and/or chief mi**nister has been removed. Only a Muslim member can become Prime Minister.

14. The **number of ministers, including ministers of state, has been limited to eleven per cent (11%) of the total membership of the Parliament** – 49 out of 446 members of Parliament. In case of the Provincial Assemblies, the number of cabinet members cannot be more than 15 or 11% of the total membership of a Provincial Assembly, whichever is higher. This provision is to be effective after the next General Elections.

15. Article 140-A pertaining to devolution of power to local governments has been retained and expanded to provide that elections of the local governments shall be held by the Election Commission of Pakistan.

16. A **new High Court has been created at Islamabad** with its judges to be drawn from all four provinces and the Islamabad Capital Territory.

17. By amending Article 200 the provision for compulsory retirement of a High Court Judge in case he refuses to accept transfer to another High Court has been done away with. High Court Judges cannot now be transferred from one court to another without their specific consent even for short periods.

18. The Election Commission of Pakistan has been considerably strengthened. The term of office of the Chief Election Commissioner (CEC) has been increased from three to five years. For the appointment of the CEC the Prime Minister and the leader of the Opposition in the National Assembly shall agree on three names. The three names shall be sent to a Parliamentary Committee consisting of not more than 12 members of whom half will be from treasury benches and half from Opposition benches. The person selected by the Parliamentary Committee shall be appointed by the President. The Election Commission of Pakistan shall have five permanent members including the Chief Election Commissioner. The Commission shall have power to prepare electoral rolls, to hold elections to fill a causal vacancy, to appoint election tribunals and to appoint staff of the Election Commission, etc. This amendment will certainly help in holding free and impartial elections in Pakistan.

19. According to the Amendment, after dissolution of the Assembly, the president shall appoint a Caretaker Prime Minister in consultation with the out-going Prime Minister and the leader of the Opposition in the National Assembly. The Caretaker Ministers shall be appointed on the advice of the Caretaker Prime Minister. The immediate family of the Caretaker Ministers i.e., spouse and children, shall not be eligible to contest the elections being supervised by the Caretaker Cabinet. Similar provisions have been provided for the Provincial Caretaker governments. This change will help in discouraging rigging of elections.

20. The Sixth and Seventh Schedules to the constitution have been omitted. **The Sixth Schedule included 35 laws which could only be amended with the prior consent of the President**. The **Seventh Schedule included eight** laws. Now these laws will be treated as any other law on the statute books.

21. Annex to the constitution is the Objectives Resolution passed by the Constituent Assembly in 1949. It has been clarified in the said Resolution that minorities have a right to freely profess and practice their religion.

22. The Concurrent List containing subjects on which both the Parliament and the Provincial Assembly can legislate has been omitted. Hence these subjects will be transferred to the provinces except Criminal Law, Criminal Procedure and Evidence on which both the Parliament and the Provincial Legislatures can make laws.

23. As per Article 153 of the constitution, the Council of Common Interests (CCI) has been given greater mandate and strengthened to carry out the increased responsibilities. Now the Prime Minister will be its Chairman. The CCI shall meet once in a quarter. It shall have a permanent secretariat. It shall consist of the Prime Minister, three Federal Ministers and the four Chief Ministers. The list of subjects on which the CCI will have policy control has been very substantially increased by transfer of some of the subjects from the omitted Concurrent List and some of the subjects from Part-I of the Federal Legislative List to Part-II of the Federal Legislative List. Now the CCI will also have policy control over reservoirs in addition to natural sources of water supply. Furthermore the Federation shall not build new hydro-electric stations in any province except after consultation with that province