Training Manual

18th Constitutional Amendment
This training manual was made possible with support from the American people through the U.S. Agency for International Development (USAID). The contents is the responsibility of Advocacy, Research, Training and Services (ARTS) Foundation and do not necessarily reflect the opinion of USAID or the U.S. Government.
# Training Schedule

**Two-Days Training on 18th Constitutional Amendment**

## Day 1: Constitutional Overview of Pakistan

<table>
<thead>
<tr>
<th>Sr. #</th>
<th>Title</th>
<th>Duration</th>
<th>Timing</th>
<th>Method</th>
<th>Resources/Materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Welcome and Introduction</td>
<td>10 min</td>
<td>09:00am-09:40am</td>
<td>Slide Presentation</td>
<td>Multimedia</td>
</tr>
<tr>
<td></td>
<td>Overview of the training course</td>
<td>10 min</td>
<td>09:00am-09:40am</td>
<td>Slide Presentation</td>
<td>Multimedia</td>
</tr>
<tr>
<td></td>
<td>Trainers’ and Participants’ Introduction</td>
<td>20 min</td>
<td>09:40am-10:00am</td>
<td>By Mutual Intro</td>
<td>By Draw</td>
</tr>
<tr>
<td></td>
<td>Pre-Test</td>
<td>20 min</td>
<td>09:40am-10:00am</td>
<td>Written Q &amp; A paper</td>
<td>Questioner</td>
</tr>
<tr>
<td>2.</td>
<td>Introductory Session: Significance of 18th Constitutional Amendment</td>
<td>45 min</td>
<td>10:00am-10:45am</td>
<td>Sticky note activity &amp; open Session</td>
<td>Color Sheets Sticky Note</td>
</tr>
<tr>
<td></td>
<td>Questions and answers</td>
<td>15 min</td>
<td>10:45am-11:00am</td>
<td>One by One</td>
<td>Participants</td>
</tr>
<tr>
<td></td>
<td><strong>Tea Break</strong></td>
<td><strong>30 min</strong></td>
<td><strong>11:00am-11:30am</strong></td>
<td></td>
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</tr>
<tr>
<td>3.</td>
<td>Constitutional History of Pakistan &amp; 18th Constitutional Amendment</td>
<td>40 min</td>
<td>11:30am-12:10am</td>
<td>By A &amp; B Group Activity &amp; presentations</td>
<td>Multi-Color Markers, Scale, Sheets &amp; Masking Tap</td>
</tr>
<tr>
<td></td>
<td>• Constitution Making in Pakistan</td>
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<td></td>
<td>• Thematic Summary of 18th Constitutional Amendment</td>
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<tr>
<td></td>
<td>Presentations by Groups and Open Discussion</td>
<td>30 min</td>
<td>12:10am-12:40pm</td>
<td>One by One</td>
<td>Participants</td>
</tr>
<tr>
<td></td>
<td><strong>Lunch</strong></td>
<td><strong>60 min</strong></td>
<td><strong>12:40pm-01:40pm</strong></td>
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<tr>
<td>4.</td>
<td>Post 18th Amendment Scenario</td>
<td>50 min</td>
<td>01:40pm-02:30pm</td>
<td>Slide Presentation</td>
<td>Multimedia</td>
</tr>
<tr>
<td></td>
<td>• Council of Common Interest (CCI)</td>
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<td></td>
<td>• National Economic Council (NEC)</td>
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<td></td>
<td>• PCCR</td>
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<td></td>
<td>• Parliament, Judiciary and Executive</td>
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<tr>
<td></td>
<td>Open Discussion &amp; Questions and answers</td>
<td>30 min</td>
<td>02:30pm-03:00pm</td>
<td>Open Discussion</td>
<td>Participants</td>
</tr>
<tr>
<td>5.</td>
<td>Role of Federal Institutions after 18th Constitutional Amendment</td>
<td>45 min</td>
<td>03:00pm-03:45pm</td>
<td>By 4 Groups Activity</td>
<td>Photocopy of notes Sheets Multicolor marker</td>
</tr>
<tr>
<td></td>
<td>1. Council of Common Interest (CCI)</td>
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<td></td>
<td>2. National Economic Council (NEC)</td>
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<td>3. PCCR</td>
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<td></td>
<td>4. Parliament, Judiciary and Executive</td>
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<tr>
<td></td>
<td>Presentations, Questions and answers</td>
<td>30 min</td>
<td>03:45pm-04:15pm</td>
<td>Open Discussion</td>
<td>Participants</td>
</tr>
<tr>
<td></td>
<td>Highlights of the day, Tea and closing of day</td>
<td>40 min</td>
<td>04:15pm-05:00pm</td>
<td>By sticky note activity</td>
<td>sticky note</td>
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</tbody>
</table>

## Day 2: 18th Constitutional Amendment and Way Forward

<table>
<thead>
<tr>
<th>Sr. #</th>
<th>Title</th>
<th>Duration</th>
<th>Timing</th>
<th>Method</th>
<th>Resources/Materials</th>
</tr>
</thead>
</table>

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3

**Day 2: 18th Constitutional Amendment and Way Forward**
<table>
<thead>
<tr>
<th>Time Interval</th>
<th>Event Description</th>
<th>Duration</th>
<th>Start Time</th>
<th>End Time</th>
<th>Activity Details</th>
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<tbody>
<tr>
<td>09:00pm-09:45am</td>
<td>谁做什么是做什么？</td>
<td>45 min</td>
<td>09:00pm</td>
<td>09:45am</td>
<td>由3组活动</td>
</tr>
<tr>
<td>09:45am-10:15am</td>
<td>预测试和培训</td>
<td>30 min</td>
<td>09:45am</td>
<td>10:15am</td>
<td>由3组活动</td>
</tr>
<tr>
<td>10:15am-10:45am</td>
<td>茶休息</td>
<td>30 min</td>
<td>10:15am</td>
<td>10:45am</td>
<td>各组活动</td>
</tr>
<tr>
<td>10:45am-11:05am</td>
<td>新联邦与省关系的新模式</td>
<td>20 min</td>
<td>10:45am</td>
<td>11:05am</td>
<td>演示文稿</td>
</tr>
<tr>
<td>11:05am-11:50am</td>
<td>组活动</td>
<td>45 min</td>
<td>11:05am</td>
<td>11:50am</td>
<td>各组活动</td>
</tr>
<tr>
<td>11:50am-12:20pm</td>
<td>茶休息</td>
<td>30 min</td>
<td>11:50am</td>
<td>12:20pm</td>
<td>各组活动</td>
</tr>
<tr>
<td>12:20pm-01:00pm</td>
<td>午休</td>
<td>40 min</td>
<td>12:20pm</td>
<td>01:00pm</td>
<td>各组活动</td>
</tr>
<tr>
<td>01:00pm-01:20pm</td>
<td>承认后挑战</td>
<td>20 min</td>
<td>01:00pm</td>
<td>01:20pm</td>
<td>演示文稿</td>
</tr>
<tr>
<td>01:20pm-02:05pm</td>
<td>组活动</td>
<td>45 min</td>
<td>01:20pm</td>
<td>02:05pm</td>
<td>各组活动</td>
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<tr>
<td>02:05pm-02:35am</td>
<td>茶休息</td>
<td>30 min</td>
<td>02:05pm</td>
<td>02:35am</td>
<td>各组活动</td>
</tr>
<tr>
<td>02:35pm-03:15pm</td>
<td>实施问题</td>
<td>40 min</td>
<td>02:35pm</td>
<td>03:15pm</td>
<td>演示文稿</td>
</tr>
<tr>
<td>03:15pm-04:00pm</td>
<td>组活动</td>
<td>45 min</td>
<td>03:15pm</td>
<td>04:00pm</td>
<td>各组活动</td>
</tr>
<tr>
<td>04:00pm-04:30pm</td>
<td>茶休息</td>
<td>30 min</td>
<td>04:00pm</td>
<td>04:30pm</td>
<td>各组活动</td>
</tr>
<tr>
<td>04:30pm-05:00pm</td>
<td>后测试和培训评估</td>
<td>30 min</td>
<td>04:30pm</td>
<td>05:00pm</td>
<td>由主持人提问</td>
</tr>
</tbody>
</table>

**Two-Days Training on 18th Constitutional Amendment**

**Pre - Test of Training**

<table>
<thead>
<tr>
<th>Date</th>
<th>District</th>
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<tbody>
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</tr>
</tbody>
</table>

**Name:**

**Designation/Profession:**

**CNIC #:**
Gender: 
Age: 
Mobile #: 
Email Address: 

Instructions: 
• Please Tick ✔ on what you think is a correct answer. 
• Multiply ticked options for one question shall not be entertained. 
• Use Ball Pen for ticking the option

Q. 1: The 18th Constitutional Amendment was passed by the National Assembly of Pakistan in:
A) 2010 B) 2009 C) 2008 D) None of these

Q. 2: How many new Articles were inserted after 18th Amendment in the Constitution?
A) 10 B) 09 C) 07 D) None of these

Q. 3: How many Articles were amended during 18th Constitutional Amendment?
A) 50 B) 67 C) 69 D) None of these

Q. 4: CCI Stands for:
A) Council of Common Implementation B) Council of Common Interest 
C) Commission of Councils’ Interest D) None of these

Q. 5: Abolition of Concurrent List means:
A) Authority transferred to Federation B) Authority transferred to Provinces 
C) Authority transferred to Civil Society D) none of these

Q. 6: In which Article provinces have been allowed 50% of their minerals share?
A) Article 27 B) Article 140 C) Article 172 D) None of these

Q. 7: NFC stands for:
A) National Financial Council B) National Financial Committee 
C) National Finance Commission D) None of these
Q. 8: Article 25A is concerned with:

A) Right to Freedom of Speech  
B) Right to information  
C) Right to Education  
D) None of these

Q. 9: Right to Basic Health facilities was provided in:

A) 8th Constitutional Amendment  
B) 17th Constitutional Amendment  
C) 18th Constitutional Amendment  
D) None of these

Q. 10: Devolution of certain subjects meant to:

A) Merge with Federation  
B) Provincial Autonomy  
C) Inter-provincially control  
D) None of these

List of Acronyms

AIML  All India Muslim League  
BSO  Baluch Student Organization  
CPCS  Center for Peace and Civil Society  
CCI  Council of Common Interests  
FATA  Federally Administered Tribal Areas  
FANA  Federally Administered Northern Areas  
INC  Indian National Congress  
IRSA  Indus River System Authority  
IUCN  International Union of Conservation for Nature  
HDI  Human Development Index
Introduction of the Organization

Advocacy, Research, Training & Services (ARTS) Foundation

Background:

Advocacy, Research, Training and Services (ARTS) Foundation is a not for profit and right based an indigenous civil society organization established on January 30, 2008, registered under Societies Registration Act 1860 and working in southern districts of Sindh.

ARTS Foundation aims to mainstream marginalized and most vulnerable segments of the society in development process through creating, strengthening and supporting local community groups, organizations and networks to influence policies through advocacy, lobbying, networking and training to protect and promote fundamental rights to empower women, youth and children.

Vision

ARTS Foundation envisions socially just, economically sound, culturally diversified and environment friendly society without gender discrimination.

Mission
ARTS Foundation mission is to enlarge social, economical, institutional, and individual development options for the benefit of women, youth and children of rural and marginalized areas through creating, strengthening, and supporting social platforms.

**Objectives**

To pick up women, girls, youth and children’s protection, participation and development issues to initiate advocacy, lobbying, and policy dialogue;

To build individual and institutional capacities of women, girls, youth and children through training and exposure in order to develop human and institutional resource at the grass roots;

To facilitate and mobilize women, girls, youth and children in developing sustainable socioeconomic capital formation systems for poverty alleviation, food security, promotion of basic health, hygiene, environment and education services;

To promote community based natural resource management and enhance capacity of women, girls, youth, children and local communities in disaster preparedness and risk reduction;

To join and work with other civil society organizations, institutes, academia, and media in struggle for basic human rights and empowerment of women, girls, youth and children.

**Area of Operation**

Mirpurkhas
Umerkot
Tando Allahyar
Tharparkar
Sanghar

**Thematic Areas**

- Social Mobilization and Empowerment [SAME] Program
- Women and Girls Empowerment [WAGE] Program
- Health, Education and Literacy [HEAL] Program
- Youth and Children Empowerment [YACE] Program
- Human Rights, Democracy and Peace [HARD] Program
- Livelihood, Emergency and Disaster Response [LEADR] Program
- Water, Sanitation and Hygiene [WASH] Program
- Human & Institutional Development [HID] Program
- Research and Policy Advocacy [RPA] Program

**Introduction of the Project**

Awareness about Implementation of 18th Constitutional Amendment (AICA) Project
Overall Objective:

Improving awareness and expanding knowledge of issues related to implementation of 18th constitutional amendment.

Specific Project Objectives

• To improve awareness and knowledge among the citizen’s about 18th constitutional amendment particularly the devolution of more powers and responsibilities to the education department in the province of Sindh;

• To broaden citizen’s participation and inclusiveness in Mirpurkhas division (districts of Mirpurkhas, Umerkot, Tharparkar and Sanghar) in relevant policy/implementation related debates or processes;

• To improve performance of education department government of Sindh in terms of implementing 18th constitutional amendment;

• To enhance the capacity of relevant government officials of education department, CSOs, Media as well as citizens in terms of implementing 18th constitutional amendment.

Grant Location:

Four districts of Mirpurkhas division – Tharparkar, Umerkot, Mirpurkhas and Sanghar

Grant Duration:

14 months

Beneficiaries:

2000 direct and 100,000 indirect

Key Activities

• Contract with Radio 4
• Recording and broadcasting of Radio Programs 36
• Publication of Articles on devolution of education department and 18th amendment 12
• Developing and printing IEC material on 18th amendment 7500
• Organizing stakeholders dialogue programs 12
• Compilation and Dissemination of Stakeholders Dialogue Program Reports among stakeholders 12
• Meetings with relevant Govt. officials 6
• Formation of vigilance committees for devolution of education department at district level 4
• Organize regular (quarterly) meetings of Vigilance Committees 16
• Advocacy Meetings with Legislators 6
• Developing Training Manual 2
• Organizing training workshops 6
### 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>
</tr>
</thead>
<tbody>
<tr>
<td>New Social Contract in the light of 1940 resolution i.e. new constitution</td>
<td>Maximum Provincial Autonomy</td>
</tr>
<tr>
<td>Provincial control over natural resources</td>
<td>Respect Diversity (Acknowledging identity e.g. Khyber Pakhtunkhwa, languages)</td>
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<td></td>
<td>Informal support for Charter of Democracy</td>
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<td></td>
<td>Expand the scope of fundamental rights. Enforceable Principles of Policy</td>
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<td></td>
<td>Secular character of the Constitution</td>
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<td></td>
<td>Independence of judiciary</td>
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<tr>
<td></td>
<td>Restoration of original Constitution of 1973</td>
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<tr>
<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>
</tr>
<tr>
<td></td>
<td>More Islamization</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Parties</th>
<th>No parliamentary representation</th>
<th>ANP, NP, PKMAP, BNP-A, JWP</th>
<th>NGOs, Bar Associations etc</th>
<th>PPP, PML-N, MQM, PML-Q, PPP-S, NPP</th>
<th>JUI-F, JI</th>
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</table>

<table>
<thead>
<tr>
<th>Strategy</th>
<th>Proposals to the Committee &amp; Media</th>
<th>Members of Committee</th>
<th>Proposals to the Committee/ Media, &amp; interaction with political parties</th>
<th>Members of Committee</th>
<th>Members of Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Nationalists</td>
<td>Left</td>
<td>Civil Society (Left-Centre-Right)</td>
<td>Centre</td>
<td>Right/ religious</td>
</tr>
</tbody>
</table>

### Courtesy:
Zafarullah Khan, Centre for Civic Education, Islamabad, Pakistan
Methodology:
Brief lecture followed by open discussion, questions/answers

Time: 40 minutes (lecture) & 20 min (Questions/answers)

Objectives of Two Days Training:

- To enhance the capacity of relevant government officials of education department, civil society organizations and media persons as well as citizens in terms of understanding constitution history of Pakistan;
- To raise awareness among relevant government officials of education department, civil society organizations and media persons as well as citizens about 18th constitutional amendment.

Significance of 18th Constitutional Amendment:

The 18th Constitutional Amendment is definitely not a panacea to all the problems that this country suffers due to the long denial of democracy and ignoring claims for provincial autonomy. Nevertheless, this could be described as a paradigm shift to reclaim the inherent federal character and spirit of Pakistan. The unanimous adoption of the 18th Amendment and its sequels the 19th and 20th Constitutional Amendments reflect the maturity of a political class. These changes have led to immense change in the country's federal architecture by delineating new division of powers between the Federal and Provincial governments, making representative institutions repositories of numerous powers and expanding the scope of fundamental rights.

The Constitution that is regarded as a 'user manual of statecraft' (Senator Nizamani, 2012) has suffered much mutilation in Pakistan. This had an adverse impact on the federal dream of the country and diluted all parameters of transparent and accountable democratic governance. Now the 18th Constitutional Amendment that is a 'negotiated legislative revolution' (Senator Raza Rabbani 2011) has changed more than 36 percent (102 Articles) contents of the Constitution. This may not be an ideal deal but it is the first ever home-grown initiative to reclaim the original federal character and spirit of the country. It could be described as a second Grand National political consensus after the adoption of the 1973 Constitution.
The Federal Quest Amid Missing Federal Heritage

"The theory of Pakistan guarantees that federated units of the national government would have all the autonomy that you will find in the constitutions of the United States of America, Canada and Australia. But certain vital powers will remain vested in the Central Government such as the monetary system, national defense and other federal responsibilities."

-Quaid-i-Azam Muhammad Ali Jinnah (An interview with the Associated Press of America, 8th November 1945)

Pre and post-partition politics of the sub-continent have revolved around the critical question of rights of the provinces. Federalism; a democratic concept of constitutionally divided powers between the federal governing authority and constituent units, had been the promise for the establishment of Pakistan. This demand is embedded in all major political documents, declarations and positions taken by the leadership that struggled for the creation of Pakistan.

The provinces were to be at the heart of these arrangements. This aspiration for provincial autonomy features prominently in the fourteen points of Quaid-i-Azam when he demanded that the, "form of the future Constitution should be federal with residuary powers vested in the provinces." A similar vision was enshrined in the Pakistan Resolution of 1940.

However, the adoption of the Government of India Act of 1935 as the provisional constitution at the time of Independence undermined the original federal vision for the country. Later the constitutional journey of Pakistan remained uneven. The 'majority constraining' (Senator Waseem, 2011) approaches resulted in the introduction of the parity formula and creation of the One Unit system (1955) by merging the provinces and princely states of then West Pakistan which further delayed the federal dream. The Constitution of 1956 created a cosmetic federal republic but was abrogated in 1958. The 1962 Constitution promulgated by a military regime centralized the governance structure and opted for a privilege term 'central' over 'federal' in its contents. The end result of these distortions was the dismemberment of Pakistan in 1971.
The idea of federalism returned after this tragedy and the Constitution of 1973 offered a federal structure with a bicameral legislature. The Senate of Pakistan was established as a Federal Upper House alongside the people’s chamber the Lower House i.e. the National Assembly. While defining the State in Article-7 three tiers of governance i.e. local, provincial and federal were envisaged. The nascent Constitution was put in abeyance in 1977 by General Zia who later through the 8th Amendment in 1985 changed its spirit. Once again in 1999 General Musharraf put it in 'abeyance' and in 2003 via the 17th Amendment gave it a quasi-presidential outlook.

Almost all political responses to these centralizing tendencies were orchestrated around a democratic federalism claim with increased provincial autonomy. The 21-points of the United Front (Jugto Front) in 1954, the 6-points of the Awami League in 1966, the Declaration of Provincial Autonomy (1986) by the Movement for the Restoration of Democracy and the Charter of Democracy (2006) were authored in the idiom of provincial autonomy.

Secondly, among the family of 28 federally organized countries in the world, Pakistan falls in the category of a "coming together federation" because the constituent units joined it through a legislative vote in Sindh, Punjab and Bengal and through public referendums in Sylhet and the then NWFP (now Khyber Pakhtunkhwa). Over a dozen princely states, including Bahawalpur, Kalat, Makran, Kharan, Lasbela, Khairpur, Swat, Amb, Dir, and Chitral, also became part of the new state.

This compositional diversity was replaced by artificial unity through the One Unit system in 1955 that nullified the demographic and electoral advantage that the more populous East Pakistan had in a united Pakistan, along with depriving the provinces of their historical and distinct identity. The military regime of General Yahya Khan abolished the One Unit on July 1, 1970 but clubbed the princely State of Bahawalpur in Punjab and Balochistan States Union with the former Chief Commissioner Province of Balochistan. The Constitution of 1973 is the first democratic document that formally recognized the original names of the four provinces.

The 18th Amendment renamed the former NWFP as Khyber Pakhtunkhwa to settle the lingering quest for identity of its majority population. After the 18th Amendment this aspect has led to demands for the creation of more provinces for secondary communities namely, Hazarawal in Khyber Pakhtunkhwa and Seraikis in Punjab.

Even today, ostensibly Pakistan is a federal governance structure, but practically there are six distinct governance zones. The system of governance in FATA (Federally Administered Tribal Areas), PATA (Provincially Administered Tribal Areas), Gilgit-Baltistan, Federal Capital Islamabad, and 43 cantonments is different from the rest of Pakistan. This exposes the myth of equality of citizenship and underlying questions of identity in Pakistan.
Deciphering the 18th Amendment

The structural reforms introduced by the 18th Amendment have impacted almost all pillars of the State namely; the Legislature, the Executive and the Judiciary. It has expanded the scope of constitutionally guaranteed fundamental rights. The amendment has redefined federal-provincial political and fiscal relations and legislative competences. The Amendment has also introduced an innovative concept of institutional power through the Parliament, provincial assemblies and federal forums like the Council of Common Interests (CCI) and National Economic Council (NEC). In order to understand these changes the following is an indicative dissection of the contents of the 18th Amendment according to the three pillars of the State. Part-II of this paper specifically focuses on federal-provincial institutional relations after the democratic devolution.

Institutional Design: Trichotomy of Power A. The Legislature

According to the constitutional scheme the Parliament and the provincial assemblies are supposed to be the centre stage of a nation's democratic aspirations. In democratic dispensation the Constituent Assembly authors and approves the Constitution of a nation. After its adoption, its supremacy is ensured and enforced by the Parliament as the custodian of the Constitution with a right to amend it through due procedure.

The Constitution of 1973 envisages Pakistan as a federal republic with representative parliamentary institutions. The Objectives Resolution adopted in March 1949 also acknowledges that delegated sovereignty shall be exercised through the chosen representatives of the people.

Session # II

Understanding Constitutional History of Pakistan and 18th Constitutional Amendment

Group Work

Group 1: Constitution Making
Group 2: Thematic Summary of 18th Constitutional Amendment

Methodology:
Group Work followed by presentations, open discussion, questions/answers

Time: 30 minutes (group work) & 30 min (Presentations, Questions/answers)

Group # 1

Template No. 1:
Constitution Making in Pakistan

A Brief Overview with special reference to the evolution of federalism in Pakistan, some studies have identified two phases: pre-federalization (1947-71) and federalization (1973). The first phase was characterized by centralization of authority and elimination of the federal structure within West Pakistan. In the second phase, federalism bounced back and gradually moved forward in the face of formidable challenges from the centralist framework of state authority.

In 1951, the Basic Principles Committee Report set out a draft of a constitution based on the principles of equal representation in the upper house, but left the composition of the lower house unclear. This was outrightly rejected by the majority-ethnic Bengalis. In 1956, the first Constitution was drafted by a bureaucrat Chaudhry Muhammad Ali, who created ‘parity formula’ between the two wings of Pakistan, with 150 seats for each in a unicameral national legislature. Hence, an unstable bipolar federation was formed. Coupled with this was the refusal to recognize ‘regional languages’, barring provinces from adopting languages of their choice. Even before elections could be held under this centralized constitutional arrangement, the bureaucratic and military arms of the state colluded to usurp power in 1958 and create an even more centralized political and administrative structure, embodied in the wholly executive-oriented Constitution of 1962.

The second constitution, again framed by a representative of the military-bureaucratic oligarchy, did not refer to the federal system in its description of the name of the state. The constitution completely excluded the provincial list of subjects and created a central list of 49 items, along with a concurrent list. Thus, through these moves, the concentration of power was retained for the President and a unicameral legislature. The provincial governments were to be headed by President-appointed governors enjoying enormous power and leverage. The centralized state organization of the 1956 and 1962 constitutions resulted in the tragic breakup of the country in 1971.

The 1973 constitution, however, created a representative parliamentary system offering certain significant concessions to provinces with special reference to language, cultural and principal decentralization. The 1973 Constitution is believed to be the first consensus document in the history of Pakistan which provided the basis for a democratic, federal and parliamentary system of governance in the country. It introduced Council of Common Interests and the National Finance Commission as forums of inter-provincial mediation. The 1973 Constitution provided for the establishment of a bicameral legislature in Pakistan.

Courtesy: Bhatti Amjad, Operational manual, transition management of democratic devolution in Pakistan. CCE-Pakistan, December 2011
Thematic Summary of 18th Constitutional Amendment

1. Restoring the Identity (Article 1)
2. Fencing the Democratic Future (Article 6)
3. Expanding the Rights (10-A, 19-A, 25-A)
4. Empowering Political Parties (Article 17)
5. Addressing Discrimination (Article 27)
6. Cementing the Senate
7. Curtailing the President
8. Correcting the Qualification to Contest (Article 62, 63)
9. Redefining ‘Defection’ (63-A)
10. Restraining Legislation through Ordinances (Article 89)
11. Reclaiming Executive Authority (Article 90)
12. Restoring the Right to Represent
13. Rationalizing the Size of the Cabinet
14. Barring the Private Pleading
15. Deepening the Democracy (Article 140 - A)
16. Authenticating the Auditing
17. A Court for the Capital
18. Recruitment Mechanism for judges (Article 175 — A)
19. Expanding judicial Benches
20. Limiting the Life of Interim Order (199)
21. Consent of the judge for his / her Transfer (200)
22. Strengthening ECP
23. Permanent Election Commissioner
24. Deleting “Schedules”
25. Freedom to Religious Minorities (Objective Resolution)
26. Returning Provincial Rights and Resources (Abolition of CLL)
27. Federalizing Provincial Interests and Democratizing joint Decision-Making (CCI)
28. Optimizing NFC

Courtesy: Bhatti Amjad, Operational manual, transition management of democratic devolution in Pakistan. CCE-Pakistan, December 2011
<table>
<thead>
<tr>
<th>Methodology:</th>
<th>Brief lecture followed by open discussion, questions/answers</th>
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<td>Time:</td>
<td>50 minutes (lecture) &amp; 30 min (Questions/answers)</td>
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The 18th Constitutional Amendment offers an opportunity to convert Pakistan into a "genuine cooperative federation" with a strengthened parliamentary role in running the affairs of the State and government with democratic checks and balances. The Amendment has introduced the concept of "shared responsibilities" through the reformed Council of Common Interests (CCI) for subjects enlisted in the Federal Legislative List-II. The CCI has been made responsible to and is required to submit its annual report to both Houses of Parliament. The Parliament in a joint sitting may also, from time to time, by resolution issue directions through the Federal Government to the Council generally, or in a particular matter to take action as the Parliament may deem just and proper. Such Parliamentary directions shall be binding on the Council. Similarly, if the Federal Government or a Provincial Government is dissatisfied with a decision of the Council, it may refer the matter to Parliament in a joint sitting whose decision in this behalf shall be final.

The reorganized National Economic Council (NEC) has been entrusted to review the overall conditions of the country and advise the Federal Government and the Provincial Governments to formulate plans in respect of financial, commercial, social and economic policies. Besides other mandates it is supposed to ensure balanced development and regional equity. The NEC has been made responsible to the Parliament and is supposed to submit its annual report to both Houses of Parliament. Similarly
after the 18th Amendment the annual report on implementation of Principles of Policy will also be placed before the Senate along with the National Assembly. The provinces are also supposed to submit their own reports.

With their expanded role and mandate these two vital constitutional forums offer new avenues of federal-provincial coordination and cooperation. Through the 18th Amendment the Parliament has also been assigned a role in the appointment of judges to the Supreme Court and the High Courts. The appointments of Chief Election Commissioner and provincial members of the Election Commission of Pakistan are also via the Parliament. The 18th Amendment delineated the concept of caretaker governments at the federal and provincial levels during the election period. Later the 20th Amendment further refined and explicitly defined the role of the Parliament and the provincial assemblies in this regard.

The role of the Parliament and respective provincial assembly has been enhanced in case of imposition of emergency in the country or in any one or more provinces. There are many other articles of the Constitution that make the Pakistan Parliament and provincial assemblies real repositories of power. The Amendment has restored the spirit of the parliamentary system in the country, and has transferred the key presidential powers to the Parliament. Now the Prime Minister and the Cabinet have been made collectively responsible to both Houses of Parliament [The National Assembly and the Senate]. Previously such responsibility was solely to the National Assembly. The Prime Minister in the federation and the Chief Ministers in the provinces have been made the Chief Executives. The concept of run-off election has been introduced for the office of Prime Minister and Chief Ministers and restriction on the number of terms for these offices has also been lifted.

The Constitution has specified that after a general election the National Assembly and the provincial assemblies have to be summoned within 21 days to elect their Speakers, Deputy Speakers and Leaders of the Houses. This is a democratic safeguard against potential manipulations. The Amendment discourages legislation through Ordinances. Any Ordinance could be promulgated only once, and one-time extension can be given by a resolution of the National Assembly or the Senate or the respective provincial assembly. The assemblies have been given power to disapprove any Ordinance. In case of differences of opinion on any legislative bill the joint sitting of the Parliament has been empowered to pass it by the vote of majority.

Although the Amendment has failed to entrust financial power to the Senate, the number of its working days have been increased from 90 to 100 and the number of days to make recommendations on the Money Bill have been increased from 7 to 14. In addition, four seats, one from each province, for religious minorities have been added in the Senate, raising its strength to 104 from 100.
The discretionary presidential powers to dissolve the National Assembly through notorious Article 58 (2) b and to refer a question to a referendum have been removed. In Article 48 (6) words "by order of the President" have been omitted to make the call for a referendum a prerogative of the Prime Minister. Now the said Article says, "If at any time the Prime Minister considers it necessary to hold a referendum on any matter of national importance, he may refer the matter to a joint sitting of the Majlis-e-Shoora (Parliament) and if it is approved in a joint sitting, the Prime Minister may cause such matter to be referred to a referendum in the form of a question that is capable of being answered by either "yes" or "no". Similarly, Article 48 (7) empowers the Parliament to lay down the procedure for the holding a referendum, compiling and consolidation of results through an Act of Parliament. These changes appear to be a parliamentary safeguard against referendums held by military dictators in 1984 and 2002 to prolong their regimes.

In order to realize all these changes the National Assembly, the Senate of Pakistan and the provincial assemblies have to amend their Rules of Procedure and Conduct of Business. The National Assembly and the Senate did this on 24th December 2010 and 8th March 2012 respectively.

However, while reading the Rules of the National Assembly with relevant provisions of the Constitution, one finds at least two factual errors. The first is in Chapter XVI i.e. Resolutions mentioned in the Constitution. The Rule 171 still mentions a Resolution for extension of the term of office of the Chief Election Commissioner under clause (1) of Article 215. The post 18th Amendment Constitution has deleted this proposition. The second is in the Chapter XVIII i.e. Reports to be placed before the Assembly the new Rules do not include three new reports to be placed before the House after the 18th Amendment. These new reports are:

(a) According to Article 153 (4) of the Constitution annual report of the Council of Common Interests.
(b) According to Article 156 (5) of the Constitution annual report of the National Economic Council;
and
(c) According to Article 160 (3B) bi-annual report on National Finance Commission.

B. The Judiciary

The role of an apex judiciary vis-a-vis democratic development in Pakistan had always been quite controversial. Since the dissolution of the first Constituent Assembly in 1955 (Federation of Pakistan versus Maulvi Tamizuddin, (PLD 1955 FC 240) till the last military intervention by General Pervez Musharraf in 1999 (Zafar Ali Shah versus General Pervez Musharraf, PLD 2000 SC 869) the courts endorsed disruptions of democracy by invoking a 'doctrine of necessity.' In the absence of the
Constitution the judges had to take oaths of allegiance on the Provisional Constitutional Orders (PCO) and legitimize the usurpers. To prevent such practices the 18th Amendment changed the mechanism of appointment of judges for the superior judiciary. According to a newly inserted Article 175-A, a multi-stakeholder Judicial Commission of Pakistan headed by the Chief Justice by a majority decision nominates to the Parliamentary Committee on Judicial appointments one name for each vacancy. This committee includes four senior judges of the Supreme Court, one former chief justice/judge, the Federal Law Minister, Attorney General and a member nominated by the Pakistan Bar Council for appointments in the Supreme Court. For appointments in a High Court, the Commission also includes; Chief Justice of the respective High Court, a senior moist judge of that High Court, the provincial Law Minister and a nominee of the concerned Bar Council. The Article has separate clauses for appointments in Islamabad High Court established through the 18th Amendment and Federal Shariat Court.

The eight-member Parliamentary Committee with equal membership from the Senate and the National Assembly and with 50 percent representation from the opposition parties confirms the nominees by majority of its total membership within fourteen days, and could reject the nomination by three-fourth majority with recorded reasons.

After the passage of the 18th Amendment this Article along with many others were challenged by 21 petitioners and on October 21, 2010 the 17-member full bench of the Supreme Court through its short order referred back to the Parliament to revisit Article 175-A. In order to avert any institutional clash the Parliament adopted the 19th Constitutional Amendment in December 2010, and addressed the concerns of the Supreme Court.

It is interesting to observe that this article was the first one that became operational on November 6, 2010 when the Judicial Commission adopted its rules and in the same month the Parliamentary Committee for Judicial Appointments (PCJA) became functional. Since then all appointments in the superior judiciary have been made through the new mechanism. As of today the Supreme Court has overruled all decisions taken by the PCJA that rejected the Judicial Commission nominations. Nevertheless, the process of appointment of judges has been democratized a bit.

The 18th Amendment has also added some new clauses in Article 6 that makes subversion, suspension, putting in abeyance or abrogation of the Constitution an act of high treason. The aiding, abetting or collaboration in such an act has also been made high treason. The said Article specifically asks the Supreme Court and a high court not to validate an act of high treason. In this way the 18th Amendment makes the role of the judiciary in sustaining the nation's democratic dreams and safeguarding the Constitution of vital importance. The Supreme Court on July 30, 2009 declared General Pervez Musharraf's second coup of November 3, 2007 as unconstitutional and developed
safeguards against future military interventions. These changes inspire confidence in the democratic future of Pakistan, but they have to be tested as the country has experienced four military coups in its 65 year existence.

Equally important is the role of superior judiciary to make Pakistan's federalism work. Article 184 while elaborating the original jurisdiction of the Supreme Court assigns it a role to pronounce declaratory judgments in any dispute between any two or more governments.

C. The Executive
The concept of separation of power entails that the executive branch of the State holds the authority and responsibility to conduct daily affairs and administration of the State. The constitutional framework and laws made by the legislature are implemented by the Executive.

According to the Rules of Business 1973 policy formulation and undertaking policy decisions is the mandate of the Executive. The rules designate the Secretary (civil servant) as the official head of division/ministry and as a principal accounting officer. Besides assisting the minister-in-charge of a division/ministry the Secretary also executes the sanctioned policies through the team comprised of civil servants.

The Article 41 of the Constitution says that the President of Pakistan is the Head of State and represents the unity of the Republic. While the Article 50 makes him part of the Parliament. In the absence of Parliament from 1977-1985 and 1999-2002 i.e. the duration of military rule, the Presidents in uniform became the Chief Executive.

The 18th Amendment has restored the original vision of the architects of the 1973 Constitution and made the Prime Minister the Chief Executive of the Federation to be elected from the National Assembly. His/her team i.e. the Cabinet comes from the National Assembly (75 percent or more) and the Senate (maximum 25 percent) with a provision of a maximum of five advisors. The 18th Amendment has fixed the size of Cabinet after election- 2013 to maximum 11 percent of the total membership of the Parliament and the respective provincial assemblies. The Amendment also makes the Chief Ministers as executive head in the provinces.

In this way we can say that only a small but driving part of the executive comes from the legislature and the federal and provincial civil servants remain the consistent thread in this scheme. The Constitution specifies these services and entrusts the Federal Public Service Commission and the Provincial Public Service Commission to recruit them.

The Parliamentary Committee on Constitutional Reforms recorded its realization in its set of recommendations that the federation and the provinces will require a different set of skills to make post-
18th Amendment federalism work. The committee recommended, "In view of a major devolution of powers and responsibilities to the provinces in the constitutional reforms package, it is imperative that the extent of and modalities for distribution of work between the Federal Public Service Commission, Provincial Public Service Commissions and the respective services be reworked and the services reorganized as to ensure provincial autonomy and good governance. It is also recommended that adequate indigenization of the services should take place as part of this reform." As of November 2012 no tangible progress has been made in this regard.

**Session # IV**

Group Work: Role of federal Institutions after 18th Constitutional Amendment

- Group 1: Council of Common Interest
- Group 2: National Economic Council
- Group 3: PCCR
- Group 4: Parliament, Judiciary and Executive

Methodology: Group work, Presentations/open discussion and Q/A

Time: 45 mints- Group work & 30 mints Presentations/open discussion and Q/A

**Template # 3: Understanding the work of PCCR**

The multi-party Parliamentary Committee on Constitutional Reforms produced three distinct products
after twelve months of in-camera deliberations:

First: The 18th Constitutional Amendment has revisited the entire Constitution. The Constitution of the Islamic Republic of Pakistan-1973 consists of 12 Parts arranged in 27 Chapters, 280 Articles, five Schedules, a Preamble and one Annexure. The 18th Constitutional Amendment was passed by the National Assembly on April 8th, 2010 and by the Senate of Pakistan on April 15th, 2010 and accentuated by the President of Pakistan on April 19th, 2010. The 18th Amendment changed about 100 Articles, Sixth and Seventh Schedules were omitted and the Concurrent List from the Fourth Schedule was deleted along with some inclusions and exclusions in Federal List-I (exclusive domain of the Federal Parliament/Government) and Federal List-II (shared domain as far as policy formulation, regulation, supervision and control of institutions related to the list are concerned).

Second: Eleven recommendations articulated for consideration of the Executive to amend laws and improve certain policies. (Annex :A)

Third: Fifteen 'Notes of Reiteration' by political parties on issues that could not yield consensus and could be described as 'pending politics.' These points are for the sake of record and for possible future opportunities to expand the scope of provincial autonomy and address remaining contentious issues. (Annex: B)

In order to make complete sense of the process one has to take all the three aspects into account. By doing so, many critics of the 18th Amendment will find adequate answers to their concerns and questions.
**Session # V**

**Group Work: Who Does What?**

Group 1: Federal Govt
Group 2: Provincial Govt
Group 3: Local Govts

Methodology: Group work, Presentations/open discussion and Q/A

Time: 45 mints- Group work & 30 mints Presentations/open discussion and Q/A

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**Template # 4: Post 18th Amendment Legislative Competences**

<table>
<thead>
<tr>
<th>S.</th>
<th>Legislative powers</th>
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<tbody>
<tr>
<td>1</td>
<td><em>Federal Legislative List-I and II</em></td>
<td>The Parliament</td>
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<tr>
<td>2</td>
<td><em>Fundamental Rights:</em> Right to Education, Right to Information and</td>
<td>Federation and the Provinces</td>
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<td></td>
<td></td>
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<tr>
<td>3</td>
<td>(a) Local Government</td>
<td>(a) Provinces</td>
</tr>
<tr>
<td></td>
<td>(b) Only for Cantonments (entry 2-FL-I)</td>
<td>(b) Federal Government</td>
</tr>
<tr>
<td>4</td>
<td><em>Criminal Law, Procedures and Evidence</em> (Article 142 (b))</td>
<td>Both the Federal Parliament and the Provinces. It is a sort of new</td>
</tr>
<tr>
<td>5</td>
<td><em>Residual subjects (including the subjects of erstwhile Concurrent List)</em></td>
<td>Provinces</td>
</tr>
</tbody>
</table>
Template # 5: Expanded Fundamental Rights

Citizens’ space:
The 18th Amendment expanded the scope of fundamental human rights. The Amendment affirmed three new rights namely: the Right to fair trial and due process, Right to Information and Right to Education. The Amendment slightly modified three other fundamental rights. In Article 17, Freedom of Association, the intra party election condition has been deleted. Similarly, a proviso related to sectarian, ethnic and regional hatred and militant wing of parties has been eliminated. These were added by a Legal Framework Order-2002 and were retained by the 17th Amendment (2003). In Article 25 pertaining to Equality of citizens the word ‘alone’ from ‘No discrimination on the basis of sex alone’ has been dropped. In Article 27, safeguard against discrimination in service, the following has been added: ‘provided also that under representation of any class or area in the service of Pakistan may be redressed in such manner as may be determined by an act of (Majlis-e-Shoora) Parliament.’

However, the Amendment failed to address vague ideological areas like Federal Shariat Court and other Articles that undermine the equality of citizenship in Pakistan. However, it brought back the word ‘freely’ for religious minorities in the text of Objectives Resolution that was deleted in 1985 during the military regime.

Pakistan has signed and ratified many international instruments such as: the International Covenant on Economic, Social and Cultural Rights (ICESR) and the International Covenant on Civil and Political Rights (ICCPR) as well as the Convention Against Torture (CAT) in April 2008, and is already a party to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), Convention on
the Rights of the Child (CRC), and to the core ILO Conventions. All these obligations do not figure prominently in the reformed Fundamental Rights chapter and the federal and provincial governments have not taken tangible steps to practically enforce many of these rights.

Template No. 6

Future of Federation — Province Transactions:

Key Institutional Entry Points

The 18th Constitutional Amendment has expanded the space for a pro-active engagement and effective participation of the Provinces to inform and influence the process of decision making at federal level. Following are two key institutional entry points which could be effectively deployed by the respective provincial governments to assert their demands and articulate their needs:

a. Council of Common Interest (CCI):

To cultivate a joint control of Federation and Provinces on key issues, 18th Amendment has introduced two major steps: (i) expanding the scope of Federal Legislative List -II and (ii) revitalizing the composition of CCI. Experts agree that the CCI has emerged as the most important forum in the new institutional framework. It is believed that the CCI will become a powerful constitutional body comprised of representatives of the Federation and Provincial Government to decide key matters especially enlisted in Federal list-II. The Council will become an effective dispute resolution, economic planning and development forum with a sense of joint responsibility.

Article 154 (1) explains the functions of CCI: "The Council shall formulate and regulate policies in relation to Part II of the Federal Legislative List and shall exercise supervision and control over related institutions."

Under the 18th Amendment, the composition and command of CCI has been strengthened. It consists of the Prime Minister as Chair, the Chief Ministers of Provinces and three members from the Federal Government to be nominated by the Prime Minister. Before 18" Amendment, any cabinet member could be the chair. The constitution of the CCI now cannot be delayed; it has to be constituted within thirty days of the Prime Minister taking oath of office. A meeting is mandated at least once in ninety days. It shall have its own secretariat. The Parliament shall have to be informed about the activities of the CCI by submitting an Annual Report to both houses.

National planning and national economic coordination including planning and coordination of scientific and technological research, major ports and census have been added from the Federal Legislative List --I. New entries include all regulatory authorities established under a Federal law, supervision and management of public debt and inter-provincial coordination matters.

b. National Economic Council (NEC)

The 18th Amendment has moved the N EC from Federal Legislative List, Part I to Part II.
With this the function of national planning has become the collective call and share responsibility of the Federal Government and the Provinces. Earlier, Pakistan had become a graveyard of federally planned and provincially executed non-functional projects and plans. National planning is no more Islamabad’s sole prerogative. Decisions on national planning would be made ensuring the provincial representation through NEC.

The amended Article 156 (2) reads: "The National Economic Council shall review the overall economic condition of the country and shall, for advising the Federal and Provincial Governments, formulate plans in respect of financial, commercial, social and economic policies; and in formulating such plans it shall, amongst other factors, ensure balanced development and regional equity and shall also be guided by the Principles of Policy set out in Chapter 2 of Part II.

The meetings of the NEC can be summoned by the chairman or on a requisition made by one-half of the membership. But meeting at least twice a year is mandatory. An Annual Report has to be submitted to each House of the Parliament. Some experts have asserted that the spirit of this new role of the NEC requires Planning Commission as its secretariat, with its members nominated by the Provinces.

The role of the Planning Commission would now change in two ways. First, with a large part of development spending devolved to the provinces, its role will diminish in overall terms in administering the Public Sector Development Program. This function would be taken over by provincial planning and development departments.

Second, the Planning Commission would play the role of a coordinator of national policies and objectives. It will now need to formulate its plan with greater provincial input instead of being the sole arbiter.

It would depend on the innovation and imagination of the provinces as how they optimize this historical opportunity of influencing national planning with their interests and perspectives incorporated.

Courtesy:
## Session # VI

**Lecture and Group Work: New Paradigm of Federal-Provincial Relationship**

<table>
<thead>
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<th>Lecture: 20 mints</th>
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<tr>
<td>Group 1: Federal list 1 &amp; 2</td>
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<td>Group 2: Abolition of Concurrent list</td>
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<td>Group 3: Devolution from Federal to Provincial Govts</td>
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<td>Group Work 4: Federal-provincial relations after 18th Constitutional Amendment</td>
</tr>
<tr>
<td>Methodology: Group work, Presentations/open discussion and Q/A</td>
</tr>
<tr>
<td>Time: 45 mints- Group work &amp; 30 mints Presentations/open discussion and Q/A</td>
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### A. Redefined Federal-Provincial Relations:

The 18th Amendment has introduced important steps towards the devolution of authority and enhancing provincial autonomy. It removed the Concurrent Legislative List that was a bone of contention between the federation and the provinces. In addition to all subjects in the Concurrent List, except boiler (shifted to Federal List-I) and electricity (shifted to Federal List-II), four subjects from the Federal List including state lotteries, duties in respect to succession of property, estate duty on property and sales tax on services have gone to the provinces.

Part V and VI of the Constitution (Articles 141-174) specifically deal with relations between the federation and provinces. Out of these thirty four (34) articles, seventeen (17) have been amended. The major amendments included: redefining legislative competence of the Parliament and provincial assemblies after the abolition of the Concurrent List, mandatory consultation with the concerned Provincial Government prior to a decision to construct hydro-electric power stations, and the provincial power to raise domestic or international loans within the prescribed limits by the NEC has been added. Furthermore, there is a provision for joint and equal ownership of natural resources like oil and gas.

The Amendment has empowered the provinces to exercise joint control with the Federal Government over 18 subjects of Federal Legislative List-II including some key subjects like sea ports, all regulatory authorities, national planning and national economic coordination, supervision and management of public debt, census and natural resources through the Council of Common Interests (CCI). The CCI has been made a powerful constitutional body comprising the Prime Minister as Chairman, three representatives of the federation and all the four provincial Chief Ministers. The new constitutional scheme envisages the Council to become an effective dispute resolution, economic planning and development forum with a sense of joint responsibility. It has been mandated to meet once every
quarter and the provinces have been empowered to requisition its meeting. The National Economic Council (NEC) has been reformed with an advisory role to review overall economic conditions in the country and to advise the federal and provincial governments to formulate plans in this regard. Another significant step forward is the consent of the concerned provincial assembly for the imposition of emergency rule in any province. Similarly the distribution of national revenues through the National Finance Commission have been protected under this Amendment that provinces' share cannot be reduced beyond that decided in the previous award.

In this way the changes introduced by the 18th Amendment could be described as the largest structural reforms introduced in Pakistan since 1947. The Amendment envisaged an Implementation Commission to transfer powers to the provinces after abolition of the Concurrent List within a specified deadline of June 30, 2011. For the first time a constitutional deadline was met and seventeen ministries that fell under the abolished Concurrent List had been transferred to the provinces. Some functions of six other ministries were also devolved and Pakistan celebrated a Day of Provincial Autonomy on July 1, 2011.

The 18th Amendment did not create new institutional architecture. Rather it reallocated powers with the Parliament, Federal Government and the provinces. The Amendment proposed to create only three new institutions with specific objectives and mandate; first the Implementation Commission to transfer ministries and subjects of abolished Concurrent List with a conclusion clause, the second a permanent secretariat of the Council of Common Interests with due provincial representation and the third High Court in Islamabad Capital Territory. During the process of implementation one new ministry i.e. Capital Administration and Development Division (CADD) was created to manage the devolved subjects and functions for the Federal capital.

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**Template No 7**

**Concurrent Legislative List: A Historical Overview**

Colonial experiment:
In colonial India, the division of power between Delhi and provinces was defined through the Government of India Act, 1919. First time, this Act enumerated two separate lists for the central and provincial subjects in India.
Reflecting a clear intent to ensure an extended control over resources, areas and communities, the central list included: defense, foreign and political relations, tariffs and customs, posts and telegraphs, patents and copyright, currency and coinage, communications, commerce and shipping, civil and criminal law and procedure, major courts, quarantine etc.

The provincial list at the most had only subordinate roles of the implementation of decisions made at the central level. It included subjects like local self-government, public health, sanitation & medical administration, education public works, water supplies and irrigation, land revenue administration, agriculture forests, co-operative societies, law and order, justice, police and jails.

There was no concurrent list but all the residuary subjects were given to the centre. When there was confusion about whether a particular subject belongs to Centre or to a province, courts were not allowed to adjudicate on it, as is the usual practice in federations. It was the Governor General who decided these issues.

In practice, most of the subjects in the provincial list were also controlled by the Centre through their nominees as Governors and the Superior Services (like Indian Civil Service, Indian Police Service) which were responsible to the Secretary of State. These services had special rights and no adverse order could be passed against them without the prior approval of the Governor. They also had right to appeal to the Secretary of State if such an adverse order has been passed."

Some independent sources of revenue were also allocated to the provinces in this Act. However, as the subject of finance remained under the control of Governor and thus indirectly with the Centre, this allocation had only a symbolic value.

Later on, the India Act of 1935 divided the legislative powers between centre and provinces through three lists: federal, provincial and concurrent. The federal list had fifty nine subjects, provincial list had fifty four subjects and concurrent list had thirty six subjects.

Post-colonial chaos:

After the independence, the India Act of 1935 was adopted as an interim constitution by newly-born Pakistan. Some studies have suggested that one of the main reasons why the process of constitution-making was delayed in Pakistan was the controversy over the issue of the division of powers between the federation and the provinces. Ironically, All India Muslim League, a party which stood for provincial rights and weak Centre before independence, now wanted a strong Centre."

After the nine years of independence, first constitution of Pakistan was promulgated on 23th March 1956. The 1956 Constitution failed to develop any substantial framework regarding the distribution of financial resources between the centre and the provinces.

A new constitution was promulgated on 8th June 1962. The 1962 Constitution demarcated the division of powers by giving a Central List. This list had forty nine subjects and all the residual powers were left to the provinces. In reality, there were no provincial governments working in Pakistan from 1962 to 1969 and only
extensions of the federal government were ruling the provinces. Provincial Governors had all the powers and they were appointed by the President and served at his pleasure. Financial distribution of resources was also directly controlled by the Centre as Governors could not make any Independent decisions. The 1962 constitution was abrogated in 1969 and Pakistan again came under military rule.

The division of powers in the 1973 Constitution has been quite different from the previous two Constitutions. There were now two legislative lists, federal and concurrent. The residuary powers were left with the provinces. Federal list had sixty seven subjects, while provincial list consisted of forty seven subjects. An understanding was reached that Concurrent Legislative List would be abolished after 10 years but 1973 Constitution could live up to only four years.

Military took over in 1977 and Constitution was abrogated. — The Concurrent Legislative List has now been abolished by the 18th Constitutional Amendment.

Courtesy: Bhatti Amjad, Operational manual, transition management of democratic devolution in Pakistan. CCE-Pakistan, December 2011

| Template No. 8
| Reforming FATA

Compliance of PCCR Recommendation:
The PCCR has set out 11 Recommendations to the Governments. The specific Recommendation no.3 urges upon the Governments to introduce reforms in Federally Administered Tribal Areas (FATA) by doing away with colonially constructed Frontier Crime Regulation (FCR) and allowing political parties to work in FATA.

Implementing the PCCR Recommendation, the two fundamental FATA reforms have been signed by the President Mr. Asif Ali Zardari in August 2011. These reforms seem to usher in a new era of democratization, mainstreaming and de-marginalization of FATA in all political, socio-cultural and economic terms.

The first fundamental reform is extension of 2002 Political Parties Act to FATA that may pave the way for a genuine political process in PATA. This reform has the potential to not only mainstream FATA but shall also be able to bring out FATA from the black hole in which it has been pushed for the last more
than a century. This reform may also be instrumental in bringing the voices of the common masses of FATA to the mainstream political discourse in Pakistan thus divesting the militant organizations and international jihadists of the critical political space that they have obtained over the past three decades. The second reform that has been promulgated by the president of Pakistan is Amendment in the Frontier Crimes Regulation of 1901. The clause of collective responsibility has been substantially reformed excluding children and the old on the one hand and enforcing a gradual sequence of arrests of the family, clan and tribe on the other hand. In the same vein, the absolute authority of Political Agent has been substantially reduced in judicial matters by forming an appellate bench in which verdicts of the PA may be challenged. This might be the first step towards extension of higher and superior judiciary to FATA. Moreover, development funds in FATA have been brought under the procedural and regulating mechanism of audit which might be instrumental in ushering in an era of economic development of FATA.

The set of reforms that have been promulgated by the president of Pakistan under article 247 of the Constitution are viewed to pave the way for political, legal-administrative and economic mainstreaming of FATA thus pulling the hapless tribal belt from the black hole.

FATA and FCR: A Historical Overview

The Frontier Crimes Regulation was first introduced in the 1840s and modified in the 1870s to be finally enacted in 1901 on the apparent assumption that the tribesmen living in the southwest of the province (later called the NWFP) needed special treatment because of their peculiar circumstances. The colonial masters also believed that socio-political institutionalization of the area comprising the tribal agencies could be used as a buffer zone between Afghanistan and British India. The identity of the region was linked more to the geo-strategic interests than the customs and traditions of the tribesmen.

Sections of the FCR, both substantive and procedural, not only violate the UN Charter and the Human Rights Charter but also transgress all civilized norms of governance and litigation. Sections 2, 8, 11, 21-27, 31, 36, 38, 39, 40 and 42 give the political administration and the tribal elite wide-ranging powers to execute justice in a way that defies all civilized norms recognized globally.

These pertain to the method of choosing Jirga members, who have to advise the political agent on matters of litigation. They empower the executive to banish a hostile tribe. The executive can sanction the construction of a tower, village or hamlet, or remove a family from the place of their residence. It specifies the mode of arrest and detention of a person to guarantee compliant behavior. The executive is given the power to impose fines. These sections of the FCR clearly violate the internationally agreed upon principles of human dignity. Not only do these sections violate the UN
Charter, they also violate the fundamental rights enshrined in Articles 4, 9, 10, 13, 14, 24 and 25 of the 1973 Constitution of Pakistan.

The areas, South Waziristan, North Waziristan, Kurram Agency, Khyber Agency, Bajaur Agency and Mohmand Agency that comprise the Fata region have been sidelined and are perceived to be static in every respect, though several changes have been introduced Malakand Agency post-1947. The upper layer of the socio-political structure of Fata has been kept intact with the use of sheer force exercised by the executive and tribal elite.

Courtesy: Bhatti Amjad, Operational manual, transition management of democratic devolution in Pakistan. CCE-Pakistan, December 2011

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**Session # VII**

**Lecture and Group Work: B. Post Devolution Predicament**

Lecture: 20 mints

Group 1: Federal list 1 & 2

Group 2: Abolition of Concurrent list

Group 3: Devolution from Federal to Provincial Governments

Group Work 4: Federal-provincial relations after 18th Constitutional Amendment

Methodology: Group work, Presentations/open discussion and Q/A

Time: 45 mints - Group work & 30 mints Presentations/open discussion and Q/A

After a year and a half of democratic devolution the real situation is not as promising as had been predicted in the 18th Amendment. The Parliament and the judiciary have internalized and operationalized almost all constitutional articles related to them. The troubled domain remains within the executive branch.

Since June 30, 2011 the Federal Government has created seven new ministries to reassemble the federally retained subjects, functions and institutions in the fields of education, environment, health, culture, minorities, food and agriculture. The creation of a Ministry of Climate Change, Ministry of Human Resource Development, Ministry of National Food Security & Research, Ministry of National Harmony, Ministry of National Heritage and Integration, Ministry of National Regulation and Services
and Ministry of Professional and Technical Training (renamed the Ministry of Education and Training) have diluted the spirit of devolution. Senator Mian Raza Rabbani the architect of the 18 Amendment and who steered its implementation declared the creation of new ministries as unconstitutional that have laid the foundation for the rollback of the 18th Amendment. (Daily Times August 7th, 2012)

The Senate which in a way is the house of federation also discussed and debated 'fears of roll back' in May 2012 and constituted a Special Senate Committee on the Implementation of the 18th Amendment. The Committee was given a three month deadline to present its report, but its first meeting was held in August-2012 and it has yet to complete its task. However in the meetings of this committee many senators questioned the need for the new ministries.

The reasons behind this roll back can be found in a written reply to a question in the Senate by Federal Minister for Inter Provincial Coordination that some vertical programmes including National Programmes on Malaria, TB, AIDS and EPI have been started at federal level again following an executive order of the Prime Minister. The reason cited by the Minister for this move includes the request by donors and international partners to place a federal mechanism that ensures continuity of presently approved grants and to ensure securing of grant funds in future. Similar arguments have been made to re-create the Ministry of Education and Training. The legislators termed this as unconstitutional and against the spirit of the 18th Amendment. They criticized the typical mindset of the federal bureaucracy to usurp provincial powers. The legislators urged the Senate who is the custodian of the 18th Amendment and representative of the federation to review the affairs of devolved ministries and prevent the government from violating the country’s Constitution for foreign aid. "It was not difficult to convince the foreign donor agencies on the situation that arose after the passage of the 18th Amendment but the government never tried to do so," maintained the Senators from various political parties.

Ideally the Council of Common Interests (CCI) and inter-provincial coordination mechanisms would have been the appropriate forums to resolve these contentious issues. The Constitution also offers some ways to voluntarily delegate some role and responsibilities to the federation and the creation of Drugs Regulatory Authority after resolutions in the spirit of Article 144 by three provincial assemblies is a living example.
Session # VIII

Lecture and Group Work: Implementation Issues

Lecture: 40 mints

Group 1: Key Provincial Concerns

Group 2: 7th NFC Award and Fiscal spaces for Provinces

Group 3: Administrative Decentralization/Denial of Local Govt System

Group Work 4: Way forward

Methodology: Group work, Presentations/open discussion and Q/A

Time: 45 mints- Group work & 30 mints Presentations/open discussion and Q/A

Template # 9:

Implementation of Democratic Devolution

Fourteen major political parties including the four (National Party, Jamaate-Islami Pakistan, Pakhtunkhwa Milli Awami Party and Jamhoori Wattan Party) that had boycotted Election-2008 and an independent legislator from Federally Administered Tribal Areas (FATA) were part of the multi-party Parliamentary Committee on Constitutional Reforms that deliberated and authored the 18th Amendment. Hammering out a political consensus in Parliament where no one has a simple majority, let alone the required two-third majority to amend the Constitution, reflects the maturity of mandate bearers.

Out of these parties three are lead partners in Provincial Governments: Pakistan People's Party in Sindh and Balochistan, Pakistan Muslim League-N in Punjab and Awami National Party in Khyber Pakhtunkhwa. About eight parties are coalition partners in one or the other province. While they were part of the process there is also a broader ownership of the product i.e. the 18th Constitutional Amendment.

However, the provinces adopted different methodologies to implement the 18th Amendment. There
were Cabinet Committees and Inter-Departmental Committees to facilitate the transition. After initial enthusiasm these committees have become almost dysfunctional in Sindh, Punjab and Balochistan. In Khyber-Pakhtunkhwa while there is strong political will for the cause of provincial autonomy the oversight mechanisms are slightly more effective. In all the four provinces no new ministry or department has been created and all devolved functions have been assigned to existing departments.

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C. **Critical Provincial Concerns:**

Many critical concerns have been raised by the Provincial Governments over non-transfer of assets, ownership and functions of several devolved subjects under the 18th Amendment. The provinces are specifically concerned about the non-transfer of Employees' Old Age Benefit Institution (EOBI), Workers Welfare Fund, Evacuee Trust Property Board (ETPB), Education, Health, Sports, Fisheries, Dairy, Livestock, and Tourism that had been ostensibly devolved but practically and unjustifiably kept with the federation. They also complain that the federation is not providing required funds for the vertical programmes related to health and other ministries.
At a meeting of the Senate Special Committee on Devolution on October 09, 2012 all the four provinces were unanimous in declaring recreation of seven new ministries on subjects which had already been devolved as sheer violation of the Constitution. The Chief Secretaries of all the four provinces at this meeting talked about the unclear status of government officials transferred to provinces. The provinces are in a dilemma whether to consider them on deputation or as permanent staff members, moreover, the issue of their promotions and other privileges are also increasing and proving additional financial burden on the provinces.

**D. Fiscal Space**

Federalism has two sides; political and fiscal. For the smooth functioning of the federation there has to be a balance between policy and resources. Provinces have often eulogized the political space given to them through the 18th Amendment but complain about the Federal Government's reluctance to transfer corresponding resources. All the four provinces publically maintain that the 7th National Finance Commission preceded the 18th Amendment and the provinces had very little fiscal resources to finance transferred functions. In June 2010 it was decided at a meeting of the CCI that funding for vertical projects and Higher Education Commission will continue from the Federal Government till the next NFC in 2014.

The amendment through Article 167 (4) empowered the provinces to negotiate a domestic or an international loan for which their Provincial Consolidated Fund can serve as security. The National Economic Council (NEC) was supposed to prepare a new framework which until now has not been evolved and agreed. The provinces have also been given joint and equal ownership in natural resources (Article 172). This meant the existing legislation had to be revisited to ensure the role of the provinces in control and management of natural resources. Equally important is to federalize the governance structures of the relevant regulatory bodies by giving due representation to the provinces. No practical step has been taken in this regard and the provinces have also failed to come up with their suggestions and initiate proactive engagement in this process.

Traditionally the provinces in Pakistan have relied on federal fiscal transfers and had always hesitated to raise revenue independently. After the 18th Amendment this culture has to change. In order to increase provincial fiscal efforts, especially to collect General Sales Tax (GST) on services, the Sindh Board of Revenue was created in 2011, and the Punjab Revenue Authority in July 2012. Khyber-Pakhtunkhwa and Balochistan have not begun any such initiative. The 18th Amendment has provided at least five new windows of opportunities to the provinces to expand their fiscal base. These windows include: capital gains, state lotteries, duties in respect to succession of property, estate duty in respect
The provinces have also failed to revise their Provincial Finance Commissions by introducing a multi-factor resource distribution formula to offer resources to the districts in a democratic manner. These points indicate that the provinces need a new kind of economic vision and should enhance their capacity to increase their fiscal base. By doing so they will have enough fiscal resources to offer the best public services to citizens and invest in vital infrastructure and human resource development.

<table>
<thead>
<tr>
<th>Template No. 10</th>
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<tbody>
<tr>
<td><strong>Economy of Autonomy: Key Fiscal Entry Points</strong></td>
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<tr>
<td>18th Amendment has not merely 'handed over' subjects and functions to the provinces for the sake of provincial autonomy instead it has carved out a supportive economy for the provincial autonomy</td>
</tr>
<tr>
<td>Following are key entry points for resource mobilization created by NFC and 18th Amendment.</td>
</tr>
<tr>
<td><strong>1. Reduced Collection Cost:</strong> Under the 7th Award the collection cost of tax has been brought down from the fixed 5 per cent to the actual cost certified by the Auditor General. This actual cost is not perceived to be more than 1 per cent of the gross tax collection.</td>
</tr>
<tr>
<td><strong>2. Divisible Pool:</strong> Under the 7th NFC Award, the second important departure from the past relates to the composition of the Divisible Pool. Item (d) in the past merely referred to &quot;Taxes on sales and purchases&quot;. In recognition of the Constitutional right of the Provinces to tax services, it has now been made clear that the Federal Government can only levy and collect sales tax on &quot;goods imported, exported, produced, manufactured or consumed&quot;. Consequently, item &quot;e&quot; in the previous NFC — &quot;Sales tax on services&quot; has now been eliminated. Under the SNA, what was called GST on services (Provincial) was also transferred to Provinces after deducting 2 per cent collection charges.</td>
</tr>
<tr>
<td><strong>3. Vertical Distribution:</strong> The provincial share in the net proceeds of the Divisible Pool has been increased from 45% (2009-10) to 56% (2010-11), further raised to 57.5% for 2011-12.</td>
</tr>
<tr>
<td><strong>4. Economic Outcomes of the Abolition of Concurrent Legislative List:</strong> It is important to note that with the abolition of CLL, power to levy fee in the functioning of devolved subjects has correspondingly been devolved to provinces. The Federal Board of Revenue has been advised that no taxation proposal is made about a subject that is not included in the Federal Legislative List or was part of the omitted Concurrent Legislative List. This provides an opportunity to provinces to generate and spend their own resources in their own development priorities.</td>
</tr>
<tr>
<td><strong>5. Transfer from FLL- Part I:</strong> Additionally, a number of revenue sources/taxes included in the Federal Legislative List Part I, have been deleted by the 18th Amendment. This means that the Provinces now have the power to explore and activate their untapped revenue potential. The devolved revenue sources include:</td>
</tr>
</tbody>
</table>
• State lotteries
• Duties in respect of succession to property
• Estate duty in respect of property
• Taxes on capital value of immovable property

6. **Excise duty on Oil:** In pre-18th Amendment arrangements, the Federal excise on natural gas was paid to the province of origin but not on oil. **Article 161 (1)** has been amended with following sub-clauses:

"(a) the net proceeds of Federal duty of excise on natural gas levied at well-head and collected by the Federal Government, and of the royalty collected by the Federal Government, shall not form part of the Federal Consolidated Fund and shall be paid to the Province in which the well-head of natural gas is situated; (b) the net proceeds of Federal duty of excise on oil levied at well-head and collected by the Federal Government, shall not form part of the Federal Consolidated Fund and shall be paid to the Province in which the well-head of oil is situated.

7. **Natural Resources:** Article 172 has been amended to allow the Provinces 50 per cent of the ownership of mineral, oil, and natural gas within the Province or the territorial waters without prejudice to the existing commitments and exclusive right to other natural resources within the territorial waters. The later, among other things, means that fish stock in territorial waters belongs to the Provinces. Accordingly, the clause (2) of the Article 172 has been amended and a new clause (3) added. These now read as follows:

"(2) All lands, minerals and other things of value within the continental shelf or underlying the ocean beyond the territorial waters of Pakistan shall vest in the Federal Government. (3) Subject to the existing commitments and obligations, mineral oil and natural gas within the Province or the territorial waters adjacent thereto shall vest jointly and equally in that Province and the Federal Government."

8. **Water and Power:** Water and power is another area taken up for review by the 18th Amendment. Article 155 previously protected interests in water affected prejudicially by the supply from a natural source. It now covers "reservoirs" as well. Article 157 (1) permits Federal Government to construct power stations anywhere in Pakistan. The 18th Amendment has introduced an obligation to consult the host Province by inserting this proviso:

"Provided that the Federal Government, prior to taking a decision to construct or cause to be constructed, hydro-electric power stations in any Province, shall consult the Provincial Government concerned."

A new clause (3) has been added for dispute resolution, which states:

"In case of any dispute between the Federal Government and a Provincial Government in respect of
any matter under this Article, any of the said Governments may move the Council of Common Interests for resolution of the dispute."

9. **Provincial Debt:** A radical change introduced by 18th Amendment is the freedom, within limits, allowed to the Provinces to raise domestic as well as foreign loans and issue guarantees. Article 167 related to borrowing by Provincial Governments now has a new clause to this effect, which states:

"(4) A Province may raise domestic or international loan, or give guarantees on the security of Provincial Consolidated Fund within such limits as may be specified by the National Economic Council."

The provincial governments are also expected to reduce their excessive dependence on federal transfers and mobilize their own resources as there is a wide room available to them to revise the tax lists and enhance their revenue base.

Courtesy: *Bhatti Amjad, Operational manual, transition management of democratic devolution in Pakistan. CCE-Pakistan, December 2011*

**E. Denial of Local Government:**

The 18th Amendment inserted Article 140-A that says, "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 government. Elections to the local governments shall be held by the election commission of Pakistan."

According to Article 7 of the Constitution of Pakistan the State means the Federal Government, Parliament, a Provincial Government, a provincial assembly, and such local or other authorities in Pakistan as are by law empowered to impose any taxes. The Article 32 of Principles of Policy asks the State to encourage local government institutions composed of elected representatives of the areas concerned and give special representation to peasants, workers and women in such institutions. When read together these three articles of the Constitution clearly convey that without local government the State will remain incomplete. Secondly, the Constitution categorically defines three parameters for elected Local Government that it has to have political, administrative and financial responsibility and authority.

A year and a half later, the provinces are still struggling for a viable legal framework for their local governments. By not holding the local elections the devolved powers have been concentrated at the provincial capitals and citizens are not getting the dividend of democratic devolution. Service delivery has deteriorated in the absence of functional local governments. The superior courts have taken up a number of petitions seeking to direct the provincial governments to hold local elections.
Pakistan is an incomplete state without elected local Governments

_article 7 of the Part II of the Constitution of Pakistan defines: "...‘the State’ means the Federal Government, [Majlis-e-Shoora (Parliament)], a Provincial Government, a Provincial Assembly, and such local or other authorities in Pakistan as are by law empowered to impose any tax or cess."

Article 32 of the Principles of Policy also emphasizes that, "The State shall encourage local Government institutions composed of elected representatives of the areas concerned and in such institutions special representation will be given to peasants, workers and women".

The amended Article 140 (A), however, clearly identifies three tiers of the government as constitutional foundations of the State of Pakistan. The 18th Amendment, however, has further laid down four fundamental benchmarks for the local governments, which include: political, administrative, financial and electoral.

The Article 140 (A) (1) of the Constitution reads:"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." Moreover, sub-clause 2 of the same article stipulates the election assignment by stating: "Election to the local governments shall be held by the Election Commission of Pakistan." While Chapter I of the Part VIII of the Constitution elaborates the roles and responsibilities of Chief Election Commissioner and Election Commission in nine sequential Articles (See Article 213, 214, 215, 216, 217, 218, 219, 220 and 221).

If Article 7 is read in conjunction with Article 140 (A) (1), the intent of the legislature has unequivocally been embodied in the Article cited above. And bare reading of the text indicates that the constitutional definition of State remains incomplete without elected local governments in Pakistan. Thus, a basic and an important link will remain missing in Pakistan unless provincial governments move with a sense of urgency to put in place the third tier of governance under their jurisdictions.

Courtesy: Bhatti Amjad, Operational manual, transition management of democratic devolution in Pakistan. CCE-Pakistan, December 2011
<table>
<thead>
<tr>
<th>S. no</th>
<th>Province/Area</th>
<th>Status of Law</th>
<th>Elections</th>
<th>Court’s order/observations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Balochistan</td>
<td>The Balochistan Local Government Act-2010 on May 13, 2010</td>
<td>No</td>
<td>On April 12, 2012 the Supreme Court while hearing a petition on the law and order situation in Balochistan asked the provincial governments to honour the command of the Constitution as enshrined in the 18th Amendment and immediately announce a schedule for local bodies’ elections.</td>
</tr>
<tr>
<td>2</td>
<td>Khyber Pakhtunkhwa</td>
<td>The Khyber Pakhtunkhwa Local Government Act-2012 on May 17</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Punjab</td>
<td>Draft law under consideration</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Sindh</td>
<td>The Sindh People's Local Government Ordinance-2012 adopted by Sindh Assembly</td>
<td>No</td>
<td>On May 18, 2012, a High Court bench headed by Justice Faisal Arab ordered the Sindh Government to hold elections in 90 days.</td>
</tr>
<tr>
<td>5</td>
<td>Federal Capital</td>
<td>No progress</td>
<td>No</td>
<td>On October 23, 2012 the Islamabad High Court ordered the Government to hold municipal elections in the Federal Capital within the next six months.</td>
</tr>
<tr>
<td>6</td>
<td>Cantonments</td>
<td>No progress [According to Federal Legislative List-Part-I (entry 2) local self-government in cantonment areas is a federal]</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Federally Administered Tribal Areas</td>
<td>FATA Local Government Regulation-2012 announced on August 14, 2012</td>
<td>No</td>
<td></td>
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<tr>
<td>8</td>
<td>Gilgit-Baltistan</td>
<td>Draft law under consideration</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

**Template # 13: Key Indicators of Administrative Reforms**

- Accountability
Administrative Decentralization

Administrative decentralization means the transfer of responsibility for the planning and management of devolved public functions - from the national government and its centralized agencies, to sub-national governments and/or sub-national administrative units and down to districts. Administrative decentralization refers to the institutional architecture — structure, systems, and procedures — that supports the implementation and management of responsibilities devolved to provincial actors and institutions. It encompasses:

- Sub-national departmental structures and responsibilities
- Human resource requirements and management systems
- Planning, monitoring and evaluation of service arrangements
- Improving capacities for budgeting, financial management and financial control
- Mechanisms for working with higher, peer, and lower levels of government or administration, as well as mechanisms for working with key local nongovernmental actors and private sector partners
- Relations between appointed officials and elected representatives should be structured in a way that balances the technical role of staff with the political roles of elected executives.

Courtesy: Bhatti Amjad, Operational manual, transition management of democratic devolution in Pakistan. CCE-Pakistan, December 2011
The Way Forward: What needs to be done?

The overall impact of the 18th Amendment could be analyzed in three distinct categories. First is the transfer of power, authority and reallocation of various subjects and functions. By and large this has happened with some remaining contentious issues like non-transfer of assets and certain institutions. These issues need to be addressed on an urgent basis. In this regard the role of the Special Committee of the Senate on Devolution is important. An assertive role of the Parliament is required to vanguard the Constitution and to accomplish the devolution process in true spirit. Any bid to rollback the devolution process or the half-baked devolution would have serious consequences for the federation. The Ministry of Inter Provincial Coordination (IPC) that also serves as the secretariat for the Council of Common Interests must come forward with a solution to the reservations being expressed by the provinces. The role of the Council of Common Interests (CCI) and National Economic Council (NEC) is of paramount importance.

The second is the transition that is on-going with its teething problems. This phase requires extensive communication among all stakeholders to grasp the character and spirit of the Amendment and redesign institutions, improve policy and planning and reform laws. In order to address their fiscal concerns and extended responsibilities the provinces shall start preparing their cases and convincing arguments for the 8th National Finance Commission Award due in 2014-15. Extensive training of civil servants in their new roles and responsibilities is necessary to make these changes work. Citizens, civil society organizations, academia and media must read and comprehend the post-18th Amendment Constitution and play a catalyzing role to expand its understanding and interpretation. Presently there is a paucity of such efforts and initiatives.

The third is the long-term and continuing efforts to completely transform Pakistan's federation by making the framework function, articulated by the 18th Amendment for good and responsive governance to meet citizens' expectations. While the provinces are at the center of these political and
fiscal changes, this calls for a proactive provincial role to convert Pakistan into a participatory federation. The provinces also need to understand and make effective use of new federal institutional spaces. The provinces must take the spirit of devolution down to districts, tehsils and union councils to improve delivery of vital services.

(Courtesy: Khan Zafarullah, Post 18th Amendment of the Constitution of Pakistan—a critical appraisal, SPO, Islamabad, March 2013)
Multiply ticked options for one question shall not be entertained.

Use Ball Pen for ticking the option

Q. 1: The 18th Constitutional Amendment was passed by the National Assembly of Pakistan in:

A) 2010  B) 2009  C) 2008  D) None of these

Q. 2: How many new Articles were inserted after 18th Amendment in the Constitution?

A) 10  B) 09  C) 07  D) None of these

Q. 3: How many Articles were amended during 18th Constitutional Amendment?

A) 50  B) 67  C) 69  D) None of these

Q. 4: CCI Stands for:

A) Council of Common Implementation  B) Council of Common Interest
C) Commission of Councils' Interest  D) None of these

Q. 5: Abolition of Concurrent List means:

A) Authority transferred to Federation  B) Authority transferred to Provinces
C) Authority transferred to Civil Society  D) None of these

Q. 6: In which Article provinces have been allowed 50% of their minerals share?

A) Article 27  B) Article 140  C) Article 172  D) None of these

Q. 7: NFC stands for:

A) National Financial Council  B) National Financial Committee
C) National Finance Commission  D) None of these

Q. 8: Article 25A is concerned with:

A) Right to Freedom of Speech  B) Right to Information
C) Right to Education  D) None of these
Q. 9: Right to Basic Health facilities was provided in:

A) 8th Constitutional Amendment  B) 17th Constitutional Amendment

C) 18th Constitutional Amendment  D) None of these

Q. 10: Devolution of certain subjects meant to:

A) Merge with Federation  B) Provincial Autonomy

C) Inter-provincially control  D) None of these

Two-Days Training on 18th Constitutional Amendment
Training Evaluation Form

Date____________________ District____________________

Name:________________________
Designation/Profession:___________
CNIC #:________________________
Gender:_________________________
Age:___________________________
Mobile #:_______________________
Email Address:___________________

<table>
<thead>
<tr>
<th>1. The training met my expectations.</th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Neutral</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
</tr>
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<tr>
<th>2. I will be able to apply the knowledge learned.</th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Neutral</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
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<tr>
<th>3. The training objectives for each topic were identified and followed.</th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Neutral</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
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</tbody>
</table>
4. The content was organized and easy to follow.

5. The materials distributed were relevant and useful.

6. The trainer was knowledgeable.

7. The quality of instructions was good.

8. The trainer met the training objectives.

9. Participatory approach and interaction were encouraged.

10. Adequate time was provided for questions and discussion.

11. How do you rate the training overall?

   Excellent   Good   Average   Poor   Very poor
   ○          ○        ○          ○          ○

12. What aspects of the training could be improved?

   •
   •
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Any other comments: