

18TH AMENDMENT AND HIGHER EDUCATION: A CASE OF DEVOLUTION GONE AWRY

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INTRODUCTION

Under the 18th Amendment (2010) to the constitution of Pakistan, the governance of higher education was devolved to provincial authorities. The purported aim of the constitutional change was to improve higher education administration through subsidiarity. However, in recent years, particularly since 2018, the higher education sector in Pakistan has faced a mounting crisis, primarily driven by financial constraints that have led to significant systemic dysfunction. The financial crisis in the universities has been variously attributed to the failure of HEIs to raise sufficient finances for sustainability and growth and to the refusal of either set of governments – federal and provincial – to extend financial support to universities. This study systematically evaluates the impact of the devolution of higher education governance to provinces after the 18th Amendment. It identifies the gaps and contradictions in the current institutional framework that have contributed to the ongoing crisis in higher education.

METHODOLOGY

The study uses predominantly desk research with both qualitative and quantitative aspects. The quantitative aspect of the research traces the budgetary allocation to the public sector universities in the aftermath of the 18th Amendment. It allows the development of an informed comparison of the same with the pre-18th Amendment situation. To complicate the analysis, the study takes into account other factors such as the increase in the number of universities and students. The study analyzes the subject matter by making a comparison between the University of Peshawar and the Institute of Management Sciences (IMSciences) Peshawar. The former institution is running a growing fiscal deficit whereas the latter institution appears financially viable. This data is presented and analyzed through graphs and flow charts to determine trends over time and across provinces.

The quantitative analyses that focus primarily on resource allocation and generation are followed by a qualitative analysis to determine the nature of the impact of the 18th Amendment. To understand whether the post-18th Amendment governance indeed creates the current crisis in universities, or it is carried over from how poorly and unsustainably the universities were being run is of core interest in the qualitative part of the research. For this part, we gathered data through interviews. The respondents are selected through purposive sampling. These respondents included university administrators, officials at provincial higher education and finance departments, at least one cabinet minister dealing with higher education, two members of the Implementation Committee on the 18th Amendment, and three officials at the Higher Education Commission. All the interviews are open-ended.

In the final analysis, the two types of data are used together to conclude the causes of the current crisis, especially given the post-18th Amendment scenario. The quantitative data provides the empirical background for the analysis whereas the qualitative data allows us to complicate the analysis given the points of view of various stakeholders.

FINDINGS OF THE STUDY

The study puts forward the following findings:

The Legal and Constitutional Confusions: The study found that there is little understanding of the constitutional context of the status of higher education in the aftermath of the 18th Amendment. In principle, higher education was placed in the residuary powers devolved to the provinces. Subsequently, the expectation was that provinces would shoulder the responsibility to provide finances to the HEIs. However, since the 7th NFC Award that distributes resources between the federal government and the provinces had been concluded prior to the 18th Amendment, the provincial governments claimed that the federal government should continue to finance the public sector HEIs. The same view was endorsed by the Implementation Commission on the 18th Amendment, and subsequently, by the CCI. Moreover, certain stakeholders took the matter of the devolution of the HEC to the Supreme Court under the pretext that the standardization of higher education remains the primary function of the HEC under the 2002 HEC Ordinance. The Court upheld the view and allowed for the HEC to continue to exist.

Establishing Universities with no intention to support them: The provincial governments, particularly those like Khyber Pakhtunkhwa, which have established more than 20 new universities since 2010, had little regard for sustainability or the financial responsibility for these institutions. The establishment of these universities was often agreed upon with the understanding that they would be financed through local resources.

HEC's Involvement: Despite the establishment of new universities by provincial governments, the Higher Education Commission (HEC) has continued to provide financing, indicating a shared responsibility.

Overlap and Contradictions: The creation of provincial Higher Education Commissions (PHECs) in Sindh and Punjab has led to conflicts with the Federal HEC. These conflicts manifest in issues such as the legality of university.

Trends in Federal Budget Allocation: After the establishment of the HEC in 2002, there was a significant increase in the federal budget allocation for higher education. However, from 2010-11 onwards, there was a noticeable slowdown in the increase, particularly in the recurring budget allocation. This has created challenges for universities in meeting their routine expenses, such as salaries and pensions. The developmental budget has increased but often includes politically motivated projects like the Prime Minister's Laptop Scheme, which do not alleviate the universities' operational financial burdens.

Challenges with Universities' Own Resources: Public sector universities face significant financial challenges in generating their own revenue. Increasing tuition fees often leads to lower enrollment, especially in poorer regions. Moreover, older universities have higher pension obligations compared to newer ones, creating a disparity in financial pressures. The overall fiscal space for the

federal government has contracted due to the NFC Award, growing loan obligations, and pressure from the IMF to reduce subsidies for public services, further complicating the financial sustainability of higher education institutions.

Pension Expenditure Issues: Older universities like the University of Peshawar face substantial financial burdens due to pension liabilities, with pension costs surpassing salary expenditures. In contrast, newer institutions such as IMSciences have avoided this issue by adopting pay scales that offer better in-service benefits without significant retirement benefits.

Impact of New Universities and BS Programs: The rapid establishment of new universities and the introduction of 4-year BS programs in public sector colleges have led to resource dilution and financial strain on older institutions. This expansion, driven by political motives rather than long-term planning, has resulted in reduced revenue from affiliated institutions and lower student enrollment in major universities departments.

RECOMMENDATIONS

1. **Settling the Responsibility Question:** A new law should be passed at the federal level that delimits the role of the HEC and align it with the provisions of the 18th Amendment. The new law should delineate the role of the HEC as a federal body limited to the relevant items in the Federal List of the Constitution, such as international agreements on higher education and standardization of higher education. The remaining powers and responsibilities should accordingly be devolved to the provincial governments.
2. The 8th National Finance Commission Award should be finalized on an urgent basis. Debating and enacting a fresh NFC Award is not only a constitutional requirement but will also help clear the ambiguity surrounding the financing of HEIs. In the absence of the award, the HEIs are under the legislative domain of the provincial government, whereas they continue to receive funds from the Federal Government.
3. A moratorium should be imposed on the establishment of new HEIs. No new public sector universities or programs should be established without a clear industry need or an unambiguous financial sustainability plan.
4. Commissions should be established to ponder the future of universities and programs with low enrolment. There is a case for the merger of HEIs in closer proximity. For instance, multiple general universities in the same district such as those in Swabi and Mardan, and universities that are in districts with closer proximity such as Karak and Kohat can be merged. Similarly, departments and institutes drawing too few students to keep them financially feasible should be merged with other disciplines or abolished altogether. The question of the future of the employees will be the thorniest. However, the decisions should be made with the understanding that the creation of these HEIs was a political decision, and employees should not suffer as a result.
5. Departments with low enrolment should be merged with other departments. Such mergers can take the form of abolishing certain programs and making use of the department faculty by allocating their services to allied disciplines. In other cases, the departments can be merged with other departments without abolishing the academic program. This latter solution would reduce the number of non-academic staff in these departments and centers.

6. A long-term solution for the expanding pension outflow must be found. The challenge extends to the whole public sector including the universities. In the future, appointments can be restricted to TTS or SPS that have no pension liability. Further, universities also need to find better venues to invest their pension funds. An earlier report by Naeem Firdaus Khan of the Strategic Support Unit proposed the setting up of a provincial University Consolidated Pension Fund.
7. HEIs are producing research with little tangible economic or policy impact. Commercialization efforts have to be assessed against actual economic or policy impact. ORICs have to find genuine partnerships with businesses and industry to channel research into economic output.
8. There is a need for an academic audit of the HEC and HEIs' performance under the various policy and governance regimes since 2002. The HEC assesses its own performance through quantitative indicators, especially through the number of universities, research publications, and graduates at various levels of education. However, the quality aspect of the equation and whether the HEC's policies have contributed to national development, in any meaningful way, has been sidestepped. An honest review through a national-level dialogue is required for a course correction.