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**POST 18TH CONSTITUTIONAL AMENDMENT SCENARIO OF HIGHER  
EDUCATION IN PAKISTAN:  
PROSPECTS, CHALLENGES AND THE WAY FORWARD**

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**ABSTRACT:**

*The paper entitled “Perspectives on Post 18th Constitutional Amendment Scenario of Higher Education in Pakistan- Prospects, Challenges and the way forward” attempts to identify the current roles and responsibilities of federation versus provinces in terms of Policy, Leadership & Management through Quality Assurance in Higher Education. This research aims to employ document analysis of the higher education management policies and practices internationally to draw implications in national context. By employing qualitative research design, the study will yield in bringing forth academia perspective regarding the implications of 18th amendment for provincial autonomy and management of higher education. The research is also focused on analyzing the emergence of Provincial Higher Education Commissions and impact of 18th amendment on the management of Higher Education in Sindh particularly and across Pakistan generally.*

**KEYWORDS:** *Post 18<sup>th</sup> constitutional amendment, responsibilities of federation, employing qualitative research.*

**INTRODUCTION:** In Pakistan higher education refers to all levels of education above grade 12, generally corresponding the age bracket of 17-23 years. No society has prospered without significant and sustained investment in higher education. Today as the world becomes increasingly interconnected, higher education is considered critical for the achievement of economic progress, political stability and peace. The vision statement expressed in the programme for education Sector Reform (2001) states: *Transforming of our institutions of higher education into world class seats of learning, equipped to foster high quality education, scholarship and research to produce enlightened citizen with strong moral and ethical values that built a tolerant and pluralistic society rooted in the culture of Pakistan.*<sup>1</sup>

For achieving this vision and allied goals of higher education the University Grants Commission (UGC) was established in 1974 by an act of parliament for maintaining standards of education and uniform policy aimed at bringing about national unity and

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cohesion. But with no control on funding the UGC nevertheless served as a transmitter of universities' annual budgetary requests to the Ministry of Education and distributor of Federal Government's Grants to the Universities. This has contributed to erosion of its credibility with universities. Keeping in view the state of affairs in higher education and stimulated by the World Bank-UNESCO task Force Report titled Higher Education in Developing Countries: *Peril and Promise* (2000), the academic community felt the need for a task force for improvement of higher education in Pakistan. The said task force was notified by the Federal Minister for Education on April 29, 2001. The task force identified a list of longstanding maladies afflicting higher education in Pakistan. The most prominent amongst the issues was ineffective governance and management structure and practices. On the recommendation of this task force, conceptually different from UGC, a central body named as Higher Education Commission was established for facilitating quality assurance of higher education and for linking funding by the Federal Government for public sector universities to the quality of performance, akin to the principles used by Higher Education Funding Council for England.<sup>2</sup> 18<sup>th</sup> constitutional amendment has prompted provinces to create their own provincial HECs resorting to somehow declare higher education as absolute provincial matter assuming to safeguard provincial autonomy rather securing the provincial share of budgetary allocation from the Council of Common Interest. A greater awareness of this change and the resulting prerequisite of capacity enhancement and better governance are required to handle Post-Secondary Education at provincial level.

**Pre-18<sup>th</sup> Amendment Higher Education Governance:**

Curriculum, planning and policy and standards of education have been federal and provincial joint functions.

**Post-18<sup>th</sup> Amendment Higher Education Governance:**

18<sup>th</sup> amendment has omitted the concurrent list from 1973 constitution leaving a questions for national and international standards, commitments like Education for All (EFA) and Millennium Development Goals (MDGs,) Equivalence, Accreditation and Licensing which call for federal role for uniformity and quality. The 18th Amendment Act, 2010, passed in the National Assembly on April 8, 2011, introduced a number of changes in the Constitution of Pakistan-1973. It amended 102 articles and devolved 47 subjects to the exclusive legislative and executive domain of the provinces. Education is one of the key subjects being devolved to the provincial mandate. The concurrent legislative list that

included education as a shared legislative jurisdiction at the federal and provincial level has been omitted, which will have a negative impact on education in general and Higher Education in particular. The omission of articles from the concurrent list and new entries in federal legislative list will have significant implications on the Higher Education sector in Pakistan and Higher Education Commission (HEC). For example, one can hardly separate item 38 being devolved to provinces from Entry 12 FLL part-II. This reflects the negligence of the parliamentary committee in consulting scholars, educationists, VCs, reviewing HEC's role, arranging seminars and conferences before devolution of the education sector.<sup>3</sup> The federal government is left to deal with international treaties, education in federal territories and inter-government coordination. Entry 16 (federal agencies/institutions for research), entry 17 (Pakistani students in foreign countries and vice-versa), and entry 7 (national planning and national economic coordination of scientific and technological research) remained unchanged. The federal government has to abolish inter-provincial coordination e.g., inter-board committee's and inter-provincial education ministerial which were a part of the federal ministry of education.

The 18th Amendment redefines the role of provinces. Since its passage in April 2011, no concrete steps are being taken by the provinces, in particular the province of Baluchistan, to deal with the Higher Education sector. The devolution of curriculum and standards to the provinces has given rise to a number of questions and issues regarding formulation of curriculum and common minimum standards of education. The prospective change on the one hand poses a daunting challenge for the provincial governments for formulation of curriculum and standards, and on other it presents the federal government with a serious question to ponder upon as how to ensure common minimum standards in all the constituent units without compromising the autonomy as envisaged by Eighteenth Constitutional Amendment.<sup>4</sup> The devolution of the curriculum also poses questions regarding the possible issues of uniformity of curriculum and implications for national

cohesion and identity. A number of researchers believe that the transfer of curriculum to the concurrent list in 1973 was a result of the East Pakistan debacle. In context of the present amendment a number of critics have put across apprehensions regarding introduction of content in the curricula which may have negative consequences for national identity and integration. Examination of the report of the constitution commission indicates that the issue of curriculum was also raised during the deliberations of the commission and at least two notes of reiteration on the same subject were submitted. These notes though did not oppose the devolution of education to the domain of provinces but did put across objection on transfer of curriculum to the provincial legislative list.<sup>5</sup> Curriculum has now been effectively devolved to the provincial domain, thus resulting in the closure of the Federal Bureau of Curriculum. Abolition of the Federal Bureau of Curriculum consequent to the devolution of curriculum to provinces and the limited mandate of the inter-governmental bodies pose a serious challenge especially in generating a national response to the issues of quality and equity.<sup>6</sup>

### **HIGHER EDUCATION GOVERNANCE IN THE COUNTRIES HAVING TOP-RANKED UNIVERSITIES**

#### **HIGHER EDUCATION GOVERNANCE, FINANCE AND ACCREDITATION IN USA:**

All private and most public institutions at the postsecondary level are chartered or licensed as corporations under U.S. law and are legally independent and self-governing in terms of academic affairs, administration, fund-raising, resource allocation and public relations. Institutions are generally governed by a board of citizens—often called a “Board of Trustees” or “Board of Regents.” This governing board is the highest authority for institutional policy, although other lesser boards—such as those composed by faculty or students—also generally participate in governance to varying degrees. The Board of Trustees (or Regents) is generally responsible for hiring the institution’s chief executive officer (president). The United States has no centralized authority exercising national control over postsecondary educational institutions. The states assume varying degrees of

control over education, but, in general, institutions of higher education are permitted to operate with considerable independence and autonomy. As a consequence, U.S. educational institutions can vary widely in their missions and the quality of their programs. In order to ensure a basic level of quality, the practice of voluntary accreditation arose in the United States as a means of conducting nongovernmental, peer evaluation of educational institutions and programs. The entities that conduct accreditation are associations of higher education institutions and academic specialists. These associations define procedures for assessing the quality of institutions and programs and formally recognize those institutions meeting their standards while withholding or withdrawing recognition from those that do not. Institutions that have been accredited generally have an advantage over non-accredited institutions with regard to student recruitment, receipt of federal and state funds and their general public image. All recognized accrediting associations are members of the Council on Higher Education Accreditation (CHEA), and a list of those entities recognized by the U.S. Secretary of Education is published annually.<sup>7</sup> Education is primarily a state and local responsibility. Nevertheless, the federal government plays a limited but important role in affecting education policy and practice at all levels and throughout the nation.

**U.S. Congress:**

The Congress is the supreme lawmaking body of the country and has passed numerous laws directly and indirectly affecting education. For example, in late 2001, the Congress passed the *No Child Left Behind Act*, which reformed the *Elementary and Secondary Education Act* to reflect key principles promoted by President George W. Bush, including stronger accountability for results, more choices for students and parents, greater flexibility and local control, and the use of research-based instruction.

**U.S. Department of Education:**

The federal Department of Education is the primary agency of the federal government that implements the laws that the Congress enacts to support education at the federal level. In doing so, the Department establishes policy for, administers and coordinates much of the

federal financial assistance for education, in accordance with these laws. Its stated mission is “to ensure equal access to education and to promote educational excellence throughout the nation.” The Department carries out its mission in two major ways. First, the Secretary and the Department play a leadership role in the ongoing national dialogue over how to improve education for all students. This involves such activities as raising national and community awareness of the education challenges confronting the nation, disseminating the latest discoveries on what works in teaching and learning and helping communities work out solutions to difficult educational issues. Second, the Department pursues its twin goals of access and excellence through the administration of programs that cover every area of education and range from preschool education through postdoctoral research.

The Department’s major activities are the following:

1. Implementing laws related to federal financial assistance for education, administering the distribution of those funds and monitoring their use.
2. The Department oversees research on most aspects of education; collects data on trends; and gathers information to help identify approaches, ideas and successful teaching techniques. Employees of the Department, as well as contractors and grant recipients, conduct the research. Research findings and statistics are disseminated to educators, policymakers, parents and the general public in the form of reports and publications—both printed and online.
3. Identifying the major issues and problems in education and focusing national attention on them. The Secretary of Education advises the President and leads the Department in implementing the President's education policies—from the preparation of legislative proposals for Congress to decisions about education research priorities. In addition, the Secretary brings national attention to education issues through speeches, publications, the media and personal appearances. The Department further highlights education issues by sponsoring and participating in national conferences and other activities.

4. Enforcing federal laws prohibiting discrimination in programs and activities that receive federal funds.

**Other Federal Agencies:**

While the Department of Education is the lead federal agency in matters of education, a number of other federal agencies provide funding and other support for educational activities in areas related to their missions. Among these agencies are the Departments of Agriculture, Commerce, Defense, Energy, Health and Human Services, Homeland Security, Interior, Labor and State; the National Endowments for the Arts and Humanities; the National Institute of Museum and Library Services; and the National Science Foundation.<sup>8</sup>

**HIGHER EDUCATION GOVERNANCE IN EUROPE IN GENERAL:**

Individual evaluation of academic staff is, in most countries, an integral part of internal quality assurance procedures. Internal procedures are often made compulsory by education authorities, and are generally determined by the institutions themselves. HEIs are often assisted in drawing up these procedures by Independent national quality assurance agencies and international associations. These bodies also ensure that international standards for quality assurance are respected.<sup>9</sup> European Higher education institutions (HEIs) are legally autonomous. This autonomy is framed within national accountability systems, which are primarily intended to promote trust between HEIs and society. Official legislation defines institutional governance structures and realms of responsibility for public and government-dependent private HEIs in every country. There are various **accountability measures** for the use of public funding, such as financial audits, performance indicators, annual reports, production of information for databases, publication of internal evaluation results and other methods of disseminating information. The **executive head** of the institution is generally the main figure responsible for the HEI's strategic planning, development, organization, management and monitoring. In about one third of the countries, the

executive head is selected by stakeholders within the HEI, but final appointment is made by an external authority such as the Ministry or head of state.

**HIGHER EDUCATION GOVERNANCE IN SINGAPORE:**

With the latest reform of the university governance and funding system, the Singapore government intends to move away from a direct interventionist control model to a more remote supervisory steering model to enhance both the efficiency and effectiveness of the university education sector. Decentralization is not simply about shifting power and authority, but also carries with it greater responsibility for achieving desired outcomes and highest value for public money dedicated to the sector. For Singapore, decentralization cannot be seen as a move by the government to reduce its responsibilities for university education due to the problem of financial stringency as in most Third World developing countries.<sup>10</sup> The Singapore government has always funded education and higher education well, has a large budget surplus and sees adequate funding as crucial to quality. The change is better understood as a means to empower more centralized and strengthened university administration and management in order to ensure that the development of university education is in line with the pursuit of excellence and world-class status with both internal and external audit exercises.<sup>10</sup>

**HIGHER EDUCATION GOVERNANCE IN PAKISTAN: LESSONS LEARNT:**

A review of international evidence suggests that almost all the federations have some form of formal arrangement at the federal tier for curriculum and standard formulation. Notwithstanding the different mechanisms adopted by each country and the particular practices of fixing the national curriculum frameworks, they all seek to ensure that the stakes related to national cohesion and values are protected irrespective of whom - federal or the state [provincial] government - has the legal mandate for preparation of the curriculum. It seems imperative in case of Pakistan that a national coordinating mechanism for curriculum needs to be developed which can ensure cohesion, equitable opportunities to all, and to coordinate the development of curricula across the provinces.



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**CHALLENGES:**

To seek optimal balance between Centralization and Decentralization after 18<sup>th</sup> constitutional Amendment is a daunting challenge. What will be the future of National Accreditation Councils if converted to Provincial Level? It will yield in unfinished agenda without sustainability of reforms introduced specially in professional education. For instance, reforms in Teacher Education by introducing B.Ed. (Hons.) Degree Program is sustained by National Accreditation Council for Teacher Education (NACTE) by rigorous accreditation process carried out by the National pool of Certified External Evaluators and the next step would be introducing teacher licensure regime. Sindh Teacher Education Development Authority (STEDA) has been established but it has to take start from scratch.

**OPPORTUNITIES & WAY FORWARD:**

Pakistan is in need of Centralized Decentralization of Higher Education. Without harming autonomy of Higher Education Institutes and Provinces, the role of Federation remains strong as it can make use of accountability measures and performance indicators as quality assurance mechanism resulting in standardization and national integration. Higher Education Commission should assume the important role of meta-accreditation, even if provincial accreditation councils replace National Accreditation Councils. All recognized accrediting associations are members of the Council on Higher Education Accreditation (CHEA), and a list of those entities recognized by the U.S. Secretary of Education is published annually. Instead of Provincial Higher Education Commissions, Provincial Department of Higher Education may coordinate with Higher Education Commission, Pakistan.

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<sup>1</sup> Report of the Task Force on Improvement of Higher Education in Pakistan: Challenges and Opportunities (January 2002), Ministry of Education, Government of Pakistan, p. xiv.

<sup>2</sup> Ibid. p. XV.

<sup>3</sup> The Gazette of Pakistan, Extr Pt.1, Constitution (Eighteenth Amendment) Act 2010, Act No X of 2010, P267, 20th April 2010.

<sup>4</sup> PILDAT (2010) *Impact of 18<sup>th</sup> Constitutional Amendment on Federation-Province Relations*

<sup>5</sup> Institute of Social and Policy Sciences (I-SAPS), *18th Constitutional Amendment: Issues and Challenges in Curriculum and Standards*

<sup>6</sup> Institute of Social and Policy Sciences (I-SAPS), *18th Constitutional Amendment: Federal and Provincial Roles and Responsibilities in Education*

<sup>7</sup> U.S. Department of Education, International Affairs Staff, *and Education in the United States: A Brief Overview*, Washington, D.C., 2005.

<sup>8</sup> Education in the United States :A brief overview, U.S. Department of Education, September 2005  
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This publication is also available on the Department's Web site at [www.ed.gov/international/edus/](http://www.ed.gov/international/edus/).

<sup>9</sup> Higher Education Governance in Europe: Policies, structure ,funding and academic staff [http://eacea.ec.europa.eu/education/eurydice/documents/thematic\\_reports/091EN.pdf](http://eacea.ec.europa.eu/education/eurydice/documents/thematic_reports/091EN.pdf), accessed on March 20,2016

For information on quality assurance bodies, see Eurydice (2007) Focus on the Structure of Higher Education in Europe – 2006/07. National Trends in the Bologna Process.

<sup>10</sup> Centralized decentralization of higher education in Singapore cited in H-H. Mok (Ed.), *Centralization and decentralization* (pp. 117-136),Comparative Education Research Centre (CERC), The University of Hong Kong, and Springer, available at: <http://www.fe.hku.hk/cerc/Publications/CERC-13.htm>



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