

Eighteenth Constitutional Amendment and Democratic Consolidation in Pakistan: Sub-systemic and Normative Institutionalisation

Muhammad Nadeem Mirza*
Saba Fatima**

ABSTRACT

Since the 2008 General Elections, environment for democracy in the country is becoming conducive with each passing day, thus resulting in democratic consolidation. Sub-systemic institutionalisation in the form of structural and constitutional development (Eighteenth Amendment), and sociological institutionalisation in the form of normative and perceptual development about democracy being a normal and natural process are important steps in democratic consolidation. This study intends to explore the causal relation between the Eighteenth Constitutional Amendment and the processes of democratic consolidation in Pakistan. It seeks to answer the question that how is the 18th Amendment nurturing democratic norms and institutions, and why is it taken as an optimistic factor for democratic consolidation in Pakistan. The study hypothesizes that conceptualization and operationalization of the semantics of

* Faculty Member, School of Politics and International Relations, Quaid-i-Azam University, Islamabad.

** Graduate, School of Politics and International Relations, Quaid-i-Azam University, Islamabad.

18th Amendment issue a provision of democratic norms, and popular support for these norms propel a normative confidence in democracy as an institution, thus paving way towards regime consolidation in Pakistan. This qualitative research is conducted using process tracing method and concludes with an expectation that despite having several political and extra-political challenges, Pakistan is slowly moving from electoral to liberal democracy, because of the normative and perceptual developments about democracy.

Introduction

The Eighteenth Constitutional Amendment in Pakistan, since its adoption in 2010, has attained a symbolic position as an emblem of democracy, civilian supremacy, provincial autonomy, and federalism. For better or worse, it has not been out of the news. The debate around it restarted with full fervour since the start of the Covid-19 pandemic.¹ Centre criticises provinces – especially Sindh where one of the opposition political parties has government – for their handling of the pandemic, while provinces responded that by implicating centre of making the situation worse. Sindh, for example considering health a provincial matter, wanted to impose severe lockdowns in cities, the centre, on the other hand, wanted to keep it relaxed. The debate revolved around the efficacy of Eighteenth Amendment and its attached nuances. Prime Minister Imran Khan exclaimed that the 18th Amendment has turned the Chief Ministers into dictators and showed desire to review some of its points.² It is interesting to note that the Khan's Pakistan Tehreek-e-Insaf (PTI) is considered as one of the biggest beneficiaries of the 18th Amendment – during 2018 general elections the PTI

1 Eighteenth Constitutional Amendment, introduced by Pakistan People's Party (PPP) government, was passed by Pakistan's legislature on April 04, 2010.

2 Imran Khan, '18th Amendment Turned CMs into Dictators: PM', The News, 10 November 2020, <https://www.thenews.com.pk/print/674140-18th-amendment-turned-cms-into-dictators-pm-imran-khan>. Also see Imran Khan, 'PM Imran Says "No Objection to 18th Amendment but Certain Points Need to Be Reviewed"', Dawn, 18 June 2020, <https://www.dawn.com/news/1564126>.

presented its performance in Khyber-Pakhtunkhwa (KP) as a model that it wanted to emulate and apply to the whole Pakistan. That performance could only be ensured because of the powers delegated to the provincial government under the 18th Amendment. Furthermore, when not in power, the PTI had been demanding the full implementation of the 18th Amendment and encouraged the devolution of power to the provinces.³ Other political parties have always maintained that the 18th Amendment has strengthened the federation of Pakistan by removing the impression that it is a garrison state.⁴ This study noted that the 18th Amendment proved to be an optimistic point of consensus thus giving a hope for the stability of democracy in Pakistan and is being described as one of the biggest constitutional achievements since the adoption of 1973 Constitution.⁵ The provincial autonomy increased according to the amendment provisions, thus enabling them to work for the lower strata of the society by influencing their health, education, and other civic rights. Moreover, the devolution of power furthered the chances of conflict management in a multi ethno-lingual society of Pakistan, thus reinvigorate the faith of general public in democracy. The enactment of the presented reforms has gained phenomenal acceptance throughout the society. The progressive scenario of Pakistan's regime suggests an optimistic view about the regime consolidation that demands time. In this study, a qualitative explanation suggests that the Eighteenth Amendment is democratic in nature, and its operationalization – though not liked by a minority section of the Pakistani society – has given a hope for the regime

-
- 3 Shehryar Afridi, representing PTI in a dialogue organized by UNDP noted that “after the passage of the 18th Constitutional Amendment it has been realized that the strength of democracy in a country depended on strength and effectiveness of Federating Units.” UNDP, CCEP, ‘A Dialogue with Political Parties on Future of Federalism and Democratic Devolution in Pakistan’ (Islamabad: United National Development Programme (UNDP) and Centre for Civic Education in Pakistan (CCEP), 1 August 2013).
 - 4 UNDP, CCEP ‘A Dialogue with Political Parties on Future of Federalism and Democratic Devolution in Pakistan’.
 - 5 Daily Dawn, 16 April 2018, Ahmed Bilal Mehboob, ‘Eight Years On’, <https://www.dawn.com/news/1401912>.

consolidation which Pakistan has been lacking since its inception. While basing the argument on this debate, the present study tries to address the questions such as: Why is the Eighteenth Amendment considered as an optimistic factor for democratic consolidation in Pakistan and how do the normative principles of political elite as well as the general public play a decisive role in this process? The study hypothesizes that operationalization of the Eighteenth Amendment issues a provision of democratic norms and a popular support propels a normative confidence in democracy as an institution thus paving a way towards regime consolidation in Pakistan. The study is conducted using qualitative process tracing method.

Democracy and Democratic Consolidation

Democracy is considered as a part of the fashionable attire of modernity⁶ and is a form of governance for the pursuance of individual freedom and rights. Robert Dahl considered democracy to be based on the principles of electoral politics, right to information, and freedom of expression.⁷ He identified seven procedural minimums for a democracy: constitutionally elected officials make the decisions, minimum coercion in the conduct of free and fair elections, practically all adults have the right to vote, and run for elections, citizens can express themselves without the fear of punishment, and they also have right to seek alternative sources of information, and finally they are free to form relatively independent associations such as political parties⁸ while De Tocqueville's concept of classical democracy revolves around a system of devolution of power to the strata of society in a hierarchical fashion with an independent and protective authority.⁹ Schumpeter, on the

6 Fareed Zakaria, 'The Rise of Illiberal Democracy', *Foreign Affairs* 76 (1997): 22.

7 Robert Alan Dahl, *Dilemmas of Pluralist Democracy: Autonomy vs. Control* (New Haven: Yale University Press, 1982).

8 Dahl, *Dilemmas of Pluralist Democracy*, 10–12.

9 Alexis de Tocqueville, *Democracy in America*, trans. J. P. Mayer and George Lawrence (New York: Harper Perennial Modern Classics, 2006).

other hand defines it as the 'institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote.'¹⁰

In nascent and developing democratic states, regimes differ based on its feasibility of liberal democratic norms. How much liberal or illiberal a state is, is marked by the measuring variables of democratic consolidation gained from that particular state. Pakistan, being a South Asian state is in the possession of certain illiberal societal norms that make liberal democracy difficult to consolidate. But three consecutive general elections give optimism for a step forward towards liberal democracy, a move away from democratic backsliding. Democratic consolidation is a teleological concept that covers both the progression and outcome of the democratic process in a certain state.¹¹ Schedler has classified the political regimes into four subtypes in which 'electoral democracy' follows the 'authoritarianism' where state had just transitioned to more or less free and fair elections. 'Electoral democracy' while overcoming the challenge of democratic erosion, leads to democratic completion and a stage termed as 'liberal democracy'. Democratic processes continue to flourish thus transforming 'liberal democracy' into 'advanced democracy.' So transforming from authoritarianism to electoral democracy, liberal democracy, and advanced democracy are four major stages in the democratic consolidation. It involves five related concepts of democratic consolidation which are preventing democratic breakdown, preventing

10 Joseph A. Schumpeter, *Capitalism, Socialism and Democracy* (London: George Allen and Unwin, 1943), 269. Furthermore Schmitter and Karl define democracy as 'a system of governance in which rulers are held accountable for their actions in the public realm by citizens, acting indirectly through the competition and cooperation of their elected representatives.' Philippe C. Schmitter and Terry Lynn Karl, 'What Democracy Is... and Is Not', *Journal of Democracy* 2, no. 3 (1991): 75–88.

11 Andreas Schedler, 'Concepts of Democratic Consolidation', in *Latin American Studies Association, Guadalajara* (Guadalajara, Mexico, 1997). Also see Andreas Schedler, 'What Is Democratic Consolidation?', *Journal of Democracy* 9, no. 2 (1998): 91–107.

democratic erosion, institutionalizing democracy, completing democracy and deepening democracy in order to transform into the final stage of advanced democracy.¹²

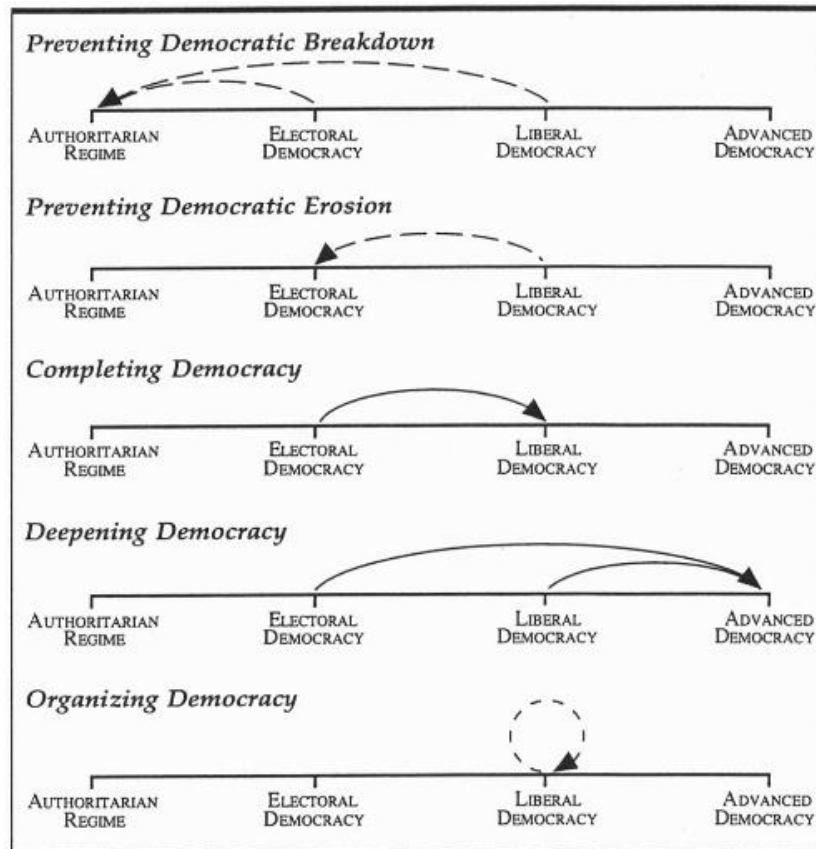


Figure 1: Democratic Consolidation (Source: Andreas Schedler)¹³

Institutionalization democracy further has two variables; Sub-systematic institutionalization (that involves institution building with constitutional frameworks under its rubric) and sociological institutionalization (that implies building perception regarding democratic institution).¹⁴ In other

12 Schedler, 'Concepts of Democratic Consolidation', 4.

13 Schedler, 'What Is Democratic Consolidation?', 107.

14 Schedler, 'Concepts of Democratic Consolidation'. Also see Schedler, 'What Is Democratic Consolidation?'

words, perceptions are shaped by sub-systematic institutionalization. Since these perceptions are important indicators for measuring democratic consolidation,¹⁵ the institutions shaping them also become important. Schedler notes that “in a consolidating democracy actors begin to perceive democratic institutions as part of the ‘normal’ or ‘natural’ order of things, as something familiar, taken for granted, beyond everyday reflection and concern, a simple element of practical knowledge.”¹⁶ Building normative perceptions, to a level that individuals start taking democracy as a normal process can be achieved at this stage of institutionalization which may involve developing suitable constitutional provisions. Given typologies, Pakistan can be placed somewhere between electoral democracy and liberal democracy. Constitutional consolidation in the form of Eighteenth Amendment under the rubric of sub-systematic institutionalization is helping develop democratic norms and perceptions about consolidation in the society and political elite. Despite having several political and extra-political challenges, these normative and perceptual developments ultimately may transform Pakistan from an electoral democracy to a liberal democracy.¹⁷

Trajectory of Pakistan’s Constitutional Transformation

After the short-lived 1956 and 1962 constitutions, a major consensus was developed on the provisions of 1973 constitution which contains 280 Articles divided into twelve Parts and six Schedules.¹⁸ Adopted under Bhutto’s

15 Andreas Schedler, ‘Expected Stability: Defining and Measuring Democratic Consolidation’, Report Number 50 (Wien: Institut für Höhere Studien (IHS), Wien, 1997).

16 Schedler, ‘Concepts of Democratic Consolidation’, 18.

17 Linz and Stepan has identified five pre-requisites that should be there in a state, so that democratic consolidation in it may take place: vibrant civil society, relatively autonomous political society, rule of law for all, established bureaucracy, and an institutionalized economic system. Alfred C. Stepan and Juan José Linz, ‘Toward Consolidated Democracies’, *Journal of Democracy* 7, no. 2 (1996): 14–33.

18 Hamid Khan, *Constitutional and Political History of Pakistan* (Oxford University Press, 2001), 271.

government the constitution of 1973 provides freedom of expression, popular democratic rights, and parliamentary system.¹⁹ In contrast to the previous two constitutions, the 1973 Constitution accommodated a bicameral and the federal system. General Zia-ul-Haq imposed the Martial Law and suspended the constitution in July 1977. He ultimately reinstated the constitution but with Eighth Amendment that tremendously increased the powers of the President. The Article 58 of the constitution was specifically amended and Clause 2(b) was added through which president could appoint and dismiss the prime minister, provincial governors, and dissolve national and provincial assemblies.²⁰ General Zia invoked this article and dismissed Prime Minister Muhammad Khan Junejo and dissolved provincial and national assemblies.²¹ After his death three successive elected governments were removed by the presidents using the same article 58(2)(b); in 1990, 1993 and 1996.²² The Prime Minister Nawaz Shareef, soon after coming to power in 1997, brought Thirteenth Amendment that removed the Article 58(2)(b),²³ but his government was overthrown by General Musharraf. Musharraf got the Seventeenth Amendment passed which almost reversed the major changes brought by the Thirteenth Amendment.²⁴ He was forced out of the power by the new Pakistan People's Party

19 *Constitution of Islamic Republic Pakistan, 1973*, Article 90(1).

20 Mohammad Waseem, 'Constitutionalism in Pakistan: The Changing Patterns of Dyarchy', *Diogenes* 53, no. 4 (1 November 2006): 102–15.

21 He issued Revival of the Constitution of 1973 Order (RCO) – PO-14 of 1985, which brought changes in almost 65 Articles of the Constitution. Revival of the Constitution of 1973 Order, 1985. President's Order 14 of 1985. PLD 1985 Central Statutes 456. Hamid Khan regards RCO as a part of Eighth Amendment without which Eight Amendment cannot be comprehended and analysed. Khan, *Constitutional and Political History of Pakistan*.

22 Government of Pakistan, 'Parliamentary History', National Assembly of Pakistan, 2020, <http://www.na.gov.pk/en/content.php?id=75>.

23 Government of Pakistan, 'Parliamentary History'.

24 Government of Pakistan, 'Seventeenth Amendment in the Constitution of the Islamic Republic of Pakistan' (Government Press, 2003). Also see Iram Khalid, 'Politics of Federalism in Pakistan: Problems and Prospects', *South Asian Studies* 28, no. 1 (2013).

led government in 2008. The President Zardari constituted a parliamentary Constitutional Reforms Committee (CRC) in 2009 with the objective of giving recommendations about amending the constitution and bringing it in accordance with the democratic principles and removing the non-democratic changes that have been brought by the previous military governments.²⁵ The Committee under the leadership of Senator Raza Rabbani presented its recommendations in the form of Eighteenth Amendment which was passed by the National Assembly on April 8, 2010 and by the Senate on April 15, 2010. The President Zardari assented it on April 19, 2010 thus making it part of the Constitution of Pakistan.²⁶

Structural Dissection of the Eighteenth Amendment

The 1956, 1962, and 1973 Constitutions established a federal structure with most of the powers residing with the centre.²⁷ The Eighteenth Amendment tried to bring provincial autonomy and establish a balance in the centre-province relations.²⁸ Historically such constitutional provisions have not only affected the state structure, but also brought a positive shift in the society's perception *vis-à-vis* democracy. State and society are interdependent parts of a whole whose functioning is guided by a set of rules – mostly embodied in the constitution. The constitution and society need to co-opt in order to keep the state operational. Pakistan's hybridity having liberal as well as South Asian traditional norms generated a post-independence framework which resulted into a state-society duality dangling between liberal norms of democracy, conservative values, patronage system, and dictatorship. This hybridity is immensely influenced by the constitutional provisions, any change in which brings a sub-statist transformation. The society with its sound judgment

25 Government of Pakistan, 'Parliamentary History'.

26 Government of Pakistan, 'Parliamentary History'.

27 Farhan Hanif Siddiqi, 'Eighteenth Amendment and the Paradox of Intra-Provincial Ethnic Discord in Pakistan', *Pakistan Journal of History and Culture* XLI, no. 1 (2020): 45–62.

28 National Assembly, 'Eighteenth Amendment in the Constitution of the Islamic Republic of Pakistan' (Government Press, 2012).

likes or dislikes these democratic changes and in the long run acknowledges the progressions made in the framework dependent upon cost benefit analysis. A phase arrives when most members of the society start taking a stab at that framework and build up specific normative democratic standards, while some begin challenging it. If a democratic constitution is fed in the state structure and the society develops a common sense of acceptance of this very democratic system and its norms because it is beneficial to them, then the co-option between state, constitution and society to strengthen this system paves a way for democratic consolidation.

This is the case with the Eighteenth Amendment, which is a change in the Constitution of Pakistan which is in the possession of content compatible with the democratic norms. Besides addressing the distribution of power between prime minister and president, and between president and parliament, it also addressed the conflict between executive and judiciary, especially the one related with the appointment of judges.²⁹ It is a progressive addition to the democratic system to operationalize the whole state structure and influence top to bottom power devolution in the society. The society accepts the norms represented in the amendment for the preservation of the democratic principles. This is a point where democratic consolidation process progresses from electoral to liberal democracy. The Eighteenth Amendment, for example, ensures the devolution of power. It inserted the Article 140 (A) in the Constitution of Pakistan which states "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."³⁰ In Pakistan's society, where extremism and religious

29 It mostly restricted the powers of the president and restored those to where they should belong in a parliamentary system, that is, to parliament and prime minister.

30 National Assembly, 'Article 140 (A)' *Constitution of the Islamic Republic of Pakistan* (Government Press, 2012).

fundamentalism remained the major concerns of state, devolving power provides not only local level solutions but also provides a template of the strong administrative structure. The effect on the ethnic characters of the provinces can be referred as point here. Because of the non-satisfaction of their needs, marginalized ethnic groups develop grievances, leading to conflicts within the state.³¹ The Baloch, for example, may imagine that their resources are being exploited by the state or the dominant ethnic group, and in the meantime their rights are being stifled on account of poor financial conditions. They may stand against the state as well as against other ethnic groups. Since independence, Pakistan has faced several such uprisings against the state. Main causes of conflict lie at the perceptions related to the economic backwardness, and a sense of denial of the basic needs, accentuated by the authoritarian rulers and political elite.³² Once conflict is generated, it may not remain territorially limited, rather it may generate instability in other provinces where again economic grievances prevail. Consequently, the instability will hinder economic development that may further accentuate their grievances. With more autonomy attached with the devolution of power, under the Article 140(A), grievances can be addressed at the local level, so as to ensure that local level issues do not impact the national integrity. Similarly amendment in Clause-1 of the Article 161 is very important in this regard which notes “the net proceeds of the 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.”³³

31 Edward E. Azar, *The Management of Protracted Social Conflict: Theory and Cases* (Aldershot, Hampshire, England : Brookfield, Vt., USA: Dartmouth Pub. Co, 1990).

32 Ho-Won Jeong, *Understanding Conflict and Conflict Analysis* (Sage, 2008), Chapter 3.

33 National Assembly, 'Eighteenth Amendment in the Constitution of the Islamic Republic of Pakistan'.

Resource distribution has long been one of the greatest grievances of the minority ethnic groups in Pakistan.³⁴ This amendment may, in the long run, alleviate this grievance thus opening the avenues of economic stability and addressing one of the major causes of terrorism. Devolution of power is an essential feature of not only democracy but also helps the administrative structure of the departments to give a robust performance. Power is shared with each province in the Eighteenth Amendment, and then this power is further devolved to the lower strata of society. With power comes responsibility and by the abolition of the Concurrent List, the provincial subjects will be in better position to demand of their representative about the performance, thus strengthening the system of checks and balances, which in turn may result in solidifying the normative beliefs in the democratic processes.³⁵ This is where chances for democratic consolidation become concrete.

Utility of Normative Principles in Democratic Consolidation

The political confidence of the general public is developed when they trust their institutions. The elected agents when in the decision-making position make the administering instrument compelling in a manner that is beneficial for those

34 Seventh National Finance Commission (NFC) Award further addressed the resource distribution related grievances of the provinces. Besides population size (which favours Punjab), it introduced other criteria for the resource distribution such as poverty/backwardness (which favours Khyber Pakhtunkhwa), revenue generation/collection (which favours Sindh), and inverse population density (which favours Balochistan). Siddiqi, 'Eighteenth Amendment and the Paradox of Intra-Provincial Ethnic Discord in Pakistan'.

35 The 18th Amendment eliminates the Concurrent List, 'an enumeration of areas where both federal and provincial governments may legislate but federal law prevails. Laws governing marriage, contracts, firearms possession, labour, educational curriculums, environmental pollution, bankruptcy, and 40 other diverse areas [are] now devolved to the provinces with the list eliminated, and each provincial assembly will be responsible for drafting its own laws on the issues.' Colin Cookman, 'The 18th Amendment and Pakistan's Political Transitions', Center for American Progress, 19 April 2010, <https://www.americanprogress.org/issues/security/news/2010/04/19/7587/the-18th-amendment-and-pakistans-political-transitions/>.

who voted, confidence on the structure of governance is created. This generalized faith and trust on the state institutions develop normative foundations of the general public, which in turn contribute to the robustness of the regime leading to democratic consolidation. The more solid the normative principles for the support of democratic governance prevail in the society, more are chances for democracy to consolidate. The Eighteenth constitutional Amendment is a democratic progression in Pakistan's history. Consolidation process remain steady when overall population, just as the political elite, builds up a standardizing confidence in the democratic practices.³⁶ At the point when the normative principles in the Pakistani society will begin fortifying then electoral democracy will push a stage ahead to liberal democracy, ultimately laying foundations for the advanced democracy.

Normative Development in Political Elite

One of the most significant aspects in the democratic consolidation is development of specific norms related to a particular system.³⁷ If the norms held by the general public and the political elite are compatible with the democratic norms, the sustenance of democratic system is prolonged. This section deals with how the Eighteenth Amendment has become a symbol of democratic processes in Pakistan and how is it helping develop norms conducive for democratic consolidation? And how and why most of the political parties have taken a strong position in defence of the Eighteenth Amendment? The PPP's manifesto has a particular section "strengthening democracy: harmonizing relations between people and institutions."³⁸ The manifesto and statements of PPP leaders show that it is a strong supporter of the

36 Andreas Schedler, 'Measuring Democratic Consolidation', *Studies in Comparative International Development* 36, no. 1 (2001): 66–92.

37 Schedler, 'Measuring Democratic Consolidation'.

38 PPP, 'Pakistan Peoples' Party Manifesto', 2018. Also see Editorial, 'PPP Manifesto', Dawn, 2 July 2018, <https://www.dawn.com/news/1417417>. 'PPP Says Will 'review All Free Trade Agreements If Voted to Power', Dawn, 30 June 2018, <https://www.dawn.com/news/1416952>.

Eighteenth Amendment at least in the context of normative principles. It organised a multiparty conference in June 2020 attended by around eighteen political parties and declared that they would not compromise on the provincial autonomy enshrined in the Eighteenth Amendment and NFC award.³⁹ In a similar conference organised in 2018, Bilawal Bhutto Zardari of the PPP called upon other political parties to resist any attempt to undo the Eighteenth Amendment.⁴⁰ Similarly Afrasiyab Khattak of the Awami National Party (ANP) while praising the democratic processes that led to the development of 1973 Constitution, and later on passage of the Eighteenth Amendment warned that “If you subvert the 18th Amendment, we will demand the instrument of parity which was needed for Bengal. We would demand more seats in the Parliament on the basis of principle of parity.”⁴¹

Apart from the PPP, other major political groups of Pakistan have also demonstrated a support for resisting any attempt to undo the Eighteenth Amendment, so as to support the democratic processes and resist any attempt from political or extra-political forces to subvert it. In November 2018, the PPP and Pakistan Muslim League-N (PML-N) resolved to jointly defend the Eighteenth Amendment not only inside and outside of the parliament but also at all fora.⁴² Similarly in its 2018 election manifesto, the ANP stated that it is committed to protect and promote the provincial autonomy “with the centre retaining control of defence, foreign affairs, currency, communications and such other subjects which the federating units agree to in the Council of Common Interest

39 Zia ur Rehman, ‘PPP’s Multi-Party Conference Decides against Making Changes in 18th Amendment’, 12 June 2020, <https://www.thenews.com.pk/print/671353-ppp-s-multi-party-conference-decides-against-making-changes-in-18th-amendment>.

40 Xari Jalil and Intikhab Hanif, ‘Political Parties Urged to Resist Attempt to Undo 18th Amendment’, Dawn, 15 October 2018, <https://www.dawn.com/news/1439085>.

41 Hasil Bizenjo of National Party, in 2018, also showed his support for the Eighteenth Amendment. Jalil and Hanif.

42 Staff Reporter, ‘18th Amendment One of Greatest Achievements of Political Parties’, Dawn, 26 March 2019, <https://www.dawn.com/news/1471887>.

(CII). It will ensure full implementation of the 18th Constitutional Amendment, particularly with regards to oil, gas, water and power, energy, health and education.”⁴³ Similar supporting statements have been given by almost every political party. Interestingly though democracy or Eighteenth Amendment as words did not appear anywhere in the PTI election manifesto of 2018, yet it dedicated three pages to its achievements in the KP from 2013-18 such as local government system, police, health, education reforms that were possible only because of the Eighteenth Amendment.⁴⁴ The Prime Minister Imran, since coming to power, has been criticising the provisions of Eighteenth Amendment. He considered that some of the subjects were wrongly transferred to the provinces, and he would try to consult with the provinces and transfer those back to the centre.⁴⁵ But his statements invited severe criticism. The Foreign Minister Shah Mehmood Qureshi before that had categorically stated that the PTI government does not intend to roll back Eighteenth Amendment, but yes, it is willing to sit with the opposition to discuss making improvements in it.⁴⁶ Support for the Eighteenth Amendment has become the only game in the town at least normatively, and even the prime minister has to talk about it cautiously and not without inviting severe criticism. Support for it has normatively become supporting democracy in Pakistan.

The Normative Aspect of General Public

Since 2008, Pakistan has organised three successful consecutive elections and if the current PTI led government completes its term, it shall be very rare in its political history. A 2013 report commissioned by the Pakistan Institute of

43 ANP, 'Awami National Party Manifesto', 2018.

44 PTI, 'Pakistan Tehreek-e-Insaf Election Manifesto', 2018.

45 Imran Ayub, '18th Amendment Needs to Be "Reviewed": PM', Dawn, 18 June 2020, <https://www.dawn.com/news/1564273>.

46 Shah Mehmood Qureshi, 'Qureshi Rules out Rolling Back of 18th Amendment', The Express Tribune, 18 May 2020, sec. Pakistan, <http://tribune.com.pk/story/2224623/1-qureshi-rules-rolling-back-18th-amendment>.

Legislative Development and Transparency (PILDAT) and conducted by the Gallup Pakistan on “Views on State of Democracy in South Asia” (Pakistan Report) showed that more than half of the Pakistanis are satisfied with the functioning of democracy in the state.⁴⁷ A similar survey conducted in 2017 by the Jang, Geo, News, Poll, Gallup Pakistan, and Pulse Consultant showed that 81percent of the population think that democracy is a solution to their problems.⁴⁸ The results of Pulse Consultant Survey show that 65percent of Pakistanis believe that democracy is better than dictatorship.⁴⁹ These surveys show that the support for democracy in Pakistan is across the board; educated/uneducated, and male/female. An astounding finding of the study remains that people’s perceptions about freedom of expression, legislation, and other positive aspects of democratic processes have increased since the last decade. They consider that their confidence in democratic processes will further increase if the democratisation process is not derailed. This is exactly what is known as the normative/perceptual development about democracy that is an important step in regime consolidation. This positive change could not have been transpired without the devolution of power under the Eighteenth Amendment which empowered people and brought democracy to the grassroots level. Devolution of power and local government systems makes individual a stakeholder in the democratic processes at the grassroots level and their confidence in democratic institutions flourish. Schedler while discussing the indicators for the ‘measurement of democratic consolidation’ at one point argues that the process of

47 Inamullah Khattak, ‘Over Half of Pakistanis Satisfied with Democracy, Report’, *Dawn*, 14 February 2014, <http://www.dawn.com/news/1086874>. Also see Gillani Research Foundation, ‘Views on Democracy’, Survey (Gallup Survey Pakistan, March 2013), 1–2.

48 Elahi Manzar and Sajjad Haider, ‘Overwhelming Majority of Pakistanis Want Democracy, Trust Armed Forces: Survey’, Geo TV, 23 November 2017, <https://www.geo.tv/latest/168956-overwhelming-majority-of-pakistanis-want-democracy-trust-armed-forces-survey>.

49 Pulse Consultant Survey, quoted by Manzar and Haider.

democratic consolidation can be observed from an optimistic lens when the expected stability is more prevalent in the minds of observers and general public.⁵⁰ After the continuous democratic processes and regular conduct of the elections, people's confidence in democracy has increased tremendously that is a prerequisite for democratic consolidation. Ijaz Shafi Gilani on the basis of report by the PILDAT and Gallup concludes that democracy has bright future in Pakistan.⁵¹

Challenges to Democratic Consolidation

Dix maintains that 'democracies differ differently',⁵² so there always exists chances of democratic backsliding, especially when political actors, involved in the democratic process, themselves start showing anti-democratic behaviour. Schmitter and Karl note that the 'norms and procedures distinguish democratic rulers from non-democratic rulers',⁵³ especially those related with the electoral process. The PTI government has been challenging certain provisions of the Eighteenth Amendment. Consequently, the Economist Intelligence Unit's Democracy Index downgraded democracy in Pakistan as compared to the previous two governments.⁵⁴ It is pertinent to note that the local governments term ended in 2019 in Balochistan and KP, while Punjab dissolved its local bodies in the same year. Sindh's local bodies' tenure ended in August 2020. So currently there are no local governments in any of the four provinces, resulting into public's loss of the confidence in the democratic institutions.

50 Schedler, 'Expected Stability'.

51 Ijaz Shafi Gilani quoted by Tauseef Ahmad Parray, 'Towards "Democratic Stability" [in Pakistan]: Facts, Factors, and Future Prospects', *Analysa: Journal of Social Science and Religion*, June 2014.

52 Robert H. Dix, 'History and Democracy Revisited', *Comparative Politics* 27, no. 1 (1994): 91–105, <https://doi.org/10.2307/422219>.

53 Schmitter and Karl, 'What Democracy Is and Is Not'.

54 Economist Intelligence Unit's Democracy Index: Democracy in PPP, PML-N Eras Better than in Present Govt', Dawn, 23 January 2020, <https://www.thenews.com.pk/print/602673-economist-intelligence-unit-s-democracy-index-democracy-in-ppp-pml-n-eras-better-than-in-present-govt>.

Coupled with misgovernance, inflation and developing narratives about curbs on freedom of expression through media restrictions, allegations of political motivated corruption cases, and above-all opposition's claim about covert and often overt hyperactive interference of extra-political forces in the political processes are few of the factors that have badly affected public's confidence in the democratic process. This process can be reversed only if the government implements the Eighteenth Amendment's provision of holding local bodies' elections as soon as possible so as to make general public a part of the democratic process. Ironically, the Election Commission of Pakistan (ECP) is unable to organise the local bodies elections because it needed the latest official census results, that was conducted in 2017, which the government has withheld up-till now. Without the official census result the ECP is unable to delimit the constituencies, and without delimitation no elections cannot be organised in Pakistan. The Twenty-fourth Constitutional Amendment gave a one-time waiver for the conduct of 2018 general elections without the official census results.⁵⁵ But in order to organise local government elections in 2020, either the government has to release the official census results or pass another amendment granting permission to organise local bodies' election without it. Without this, the public confidence in democracy and normative principles developed over last decade will continue to erode, a process known as democratic backsliding. So, these are not only the developments but the nourishment and progression of the normative principles that influence the democratic consolidation.

Besides, the Eighteenth Amendment is not a package for the complete overhaul of the democratic processes in

55 Irfan Ghauri, 'Senate Finally Passes Amendment Bill on Delimitation of Constituencies: 24th Constitutional Amendment', *The Express Tribune*, 19 December 2017, sec. Pakistan, <http://tribune.com.pk/story/1587897/senate-finally-passes-amendment-bill-delimitation-constituencies>.

Pakistan.⁵⁶ There are several areas where it is silent, and which can be addressed only if both the state and provincial legislatures may work in concert with each other - such as the issue of minority within minorities.⁵⁷ Provincial autonomy has garnered the support for new provinces in Pakistan. Such as the movement for a separate province in KP for the Hazarawals has seen an upward trajectory since the renaming of the province, there also exist capacity issues at the provincial levels. They have been assigned several subjects for that they neither have enough resources, nor expertise to implement. Centre instead of trying to take back such subjects may try to help develop provincial capacity so that the amendment can be implemented in an effective manner.

Conclusion

The Eighteenth Amendment has become a symbol of democratic consolidation in Pakistan, any challenge to which by anyone is considered as anti-democratic. It has led to the normative and perceptual development of general public and political elite who have stated taking democratic processes as a normal part of the life. Schedler considers this step crucial in the democratic consolidation and termed it as institutionalising democracy, which involves sub-systemic institutionalisation involving constitutional and structural reforms at par with democracy, and sociological

56 The problems diagnosed by experts related with the Eighteenth Amendment are ambiguity over taxation rights between federation and its units, weak administrative structures, lack of political will and apparatuses to enforce devolved subjects/laws, issues of capacity, efficiency, rent-seeking and competitiveness, violation of the rule of law, non-acceptance of the norms of fair play in economic matters coupled with 'reckless' borrowing and 'ruthless' spending amidst dismal tax-to-GDP ratio. Huzaima Bukhari and Ikramul Haq, 'Post-18th Amendment Fiscal Challenges – Business Recorder', Business Recorder, 18 January 2019, <https://fp.brecorder.com/2019/01/20190118440463>.

57 Dr Mohammed Waseem while talking in a dialogue noted that "The provincial autonomy brought by the 18th Amendment has left secondary communities such as the Saraikis and the Hazaras alienated." UNDP, CCEP, 'A Dialogue with Political Parties on Future of Federalism and Democratic Devolution in Pakistan'.

institutionalisation which involved building norms and perceptions to a level that individuals start taking democracy as a normal and natural process, something that is taken for granted. The Eighteenth Amendment in Pakistan is part of the sub-systemic institutionalisation which has performed important role in democratic consolidation. Pakistan has experienced sustainable electoral democracy since 2008 and three consecutive general elections are held but it is still lagging behind in its transformation to the next levels, which are liberal and advanced democracy. Major reasons behind this lag are related with the provincial capacity and efficiency problems, lack of will, corrupt practices both at the provinces and centre, centre's intransigence and reluctance to share power and resources, misgovernance leading to poor law and order situation, and above all denigratory role of extra-political actors in the form of, but not limited to, military who have remained one of the most powerful actors in the political arena of Pakistan. An example of such problems concentrated in one issue remains holding of the local government elections which are a provincial matter. But provinces cannot organise elections unless the Election Commission of Pakistan conducts a thorough delimitation of the constituencies as is enunciated by the rules and laws. On the other side, Election Commission cannot conduct delimitation unless centre releases the official results of census 2017. Centre, above all, is reluctant to release the official results because some of the major political parties have challenged census and asked for one percent audit of the results. Ironically some of such political parties are allies of the PTI led government and if it releases the census official results, it fears losing them. So, the local bodies which are an important source for the development of normative and perceptual democratic values and an essential part of the sociological institutionalisation of democracy cannot be organised unless the centre brings in a new amendment allowing for a one-time waiver to the ECP to conduct elections on the provisional results, or it releases the official results. Local governments are an important source of democratic consolidation because through it

individuals develop their stakes in the electoral process and that is exactly what the logic behind devolution of power is. Consequently, the democracy in Pakistan in the last two years has either stagnated in the indexes or has gone down – a process known as democratic erosion. This process could still be halted if the political actors take steps to re-construct people’s confidence in the democratic institutions – both structural and normative – and the best way to do that is to strengthen the Eighteenth Amendment by removing lacunae in it and implementing it in true spirit. Electoral democracy in Pakistan has all the chances of transforming into liberal democracy, only if the political actors involved in the democratic processes declare that they will not compromise on principles and will continue to strengthen norms and values in order to achieve democratic consolidation.