

# The 18th Amendment: How much has Sindh benefitted?

## INFONALYSIS

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## The 18th Amendment: How much has Sindh benefitted?

The 18th Constitutional Amendment was passed in April 2010 with the aim of providing more autonomy to the provincial governments of Pakistan. The change received wide political support as it had met some of the long standing demands of the provinces for higher self-sufficiency. As a consequence, 17 ministries (education, social welfare and special education, tourism, special initiatives, population planning, local government and rural development, Zakat and Ushr, youth affairs, livestock and dairy development, culture, food and agriculture, sports, environment and health, women development, minorities' affairs, and labor and manpower) were abolished at the federal level in 2011 and their responsibilities were transferred to the provinces.

### **An amendment to bring governance closer to people**

A key reason for the move was inadequate attention given to the transferred sectors by federal govts. in the past, and the devolution meant to bring governance in these sectors much closer to the people so that unabated development could take place. In the process, Pakistan became the 2nd country in the world (after Canada) not to have an education ministry at the center. The 18th amendment also transferred the prerogative of collection of sales tax on services to the provinces.

Under the 7th NFC Award effective from FY11, the provincial share of the federal divisible pool was increased from 46% to 57.5% resulting in a greater share of the total spending moving from the federal to the provincial level. According to the formula for the allocation of shares to the provincial governments by the federation, the highest weight was given to population (82%) followed by poverty or backwardness (10.3%), revenue generation (5%) and inverse population density (2.7%). As per this criteria, Punjab gets the lion's share of 51.74% of the total provincial share, followed by Sindh getting 24.55%, while KPK and Baluchistan get shares of 14.62% and 9.09% respectively.

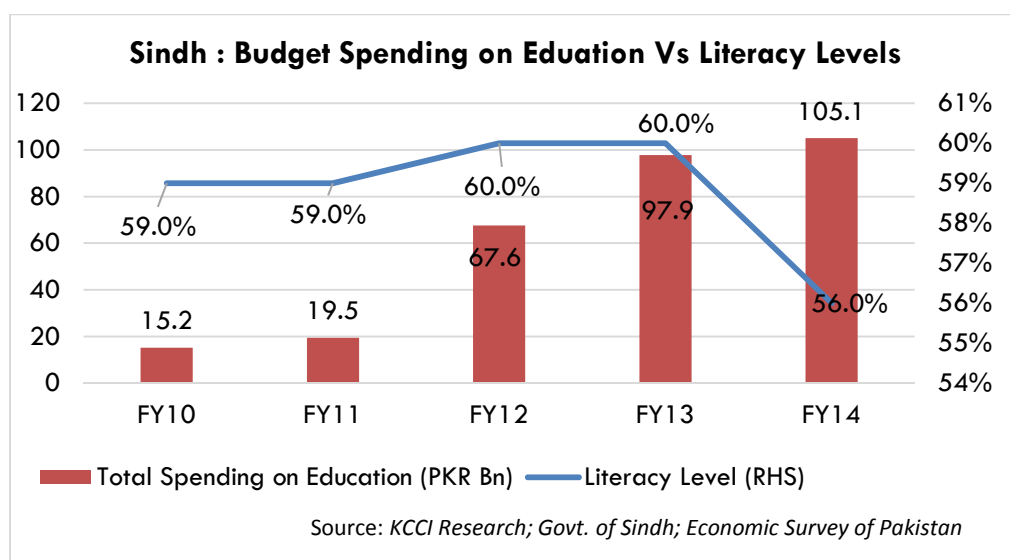
Taken together, constitutional reforms under the 18th amendment and the 7th NFC award represent steps in the right direction with major potential benefits. Provinces have been allowed more control of developments in their own jurisdictions, thereby granting them the freedom to spend more in areas or sectors which require the most spending. And who else ought to be better aware of the development needs of each area than its own elected representative? But how effective has the 18th amendment actually been 5

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years after its enforcement? Has it been able to realize its objectives? Has it been able to bring peace and prosperity to the citizens of Sindh province and an improved business climate to the businessmen of the province? Let us cast a glance on the state of affairs in Sindh post the 18th amendment and on some issues which have marred the overall devolution process.

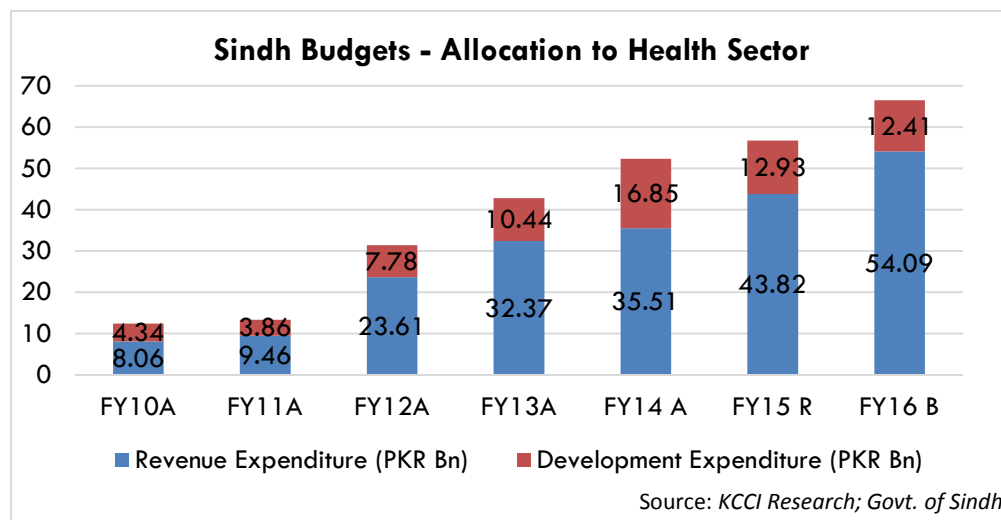
### High allocation to education in Sindh, yet an increase in illiteracy

Sindh has been continuously increasing its expenditure on education over the years (from 4.59% of total expenditure in FY10 to 19.86% in FY16). For FY16, PKR 12.84Bn have been allocated to the sector as development capital expenditures against PKR 4.8Bn in FY10 (budget prior to the 18th amendment), a growth of 167%. Further, the growth in the current revenue expenditures for education is 10 times higher as PKR 144.7Bn have been allocated in FY16 as compared to paltry PKR 10.4Bn in FY10, recording cumulative growth of 1300%!! And just how effective has this allocation been? Lamentably, literacy rate in Sindh has actually declined to 56% in 2014 (last available figure) from 59% in 2010. Primary, secondary and technical education remain immersed in lethargy. Ghost schools abound and continue to increase, where teachers' salaries are more often than not paid to cronies of feudal landlords as illiteracy continues to reign supreme, thus creating ideal grounds for terrorism to grow. Imposed illiteracy is also a key factor which prevents the rural masses from breaking free from the traditional stranglehold of the feudals.



### Has 571% increase in current health expenditure improved health?

In the same vein, the health sector has been allocated a development amount of PKR 12.41Bn in FY16 as against PKR 4.34Bn in 2010, an increase of 186%. Budgeted current revenue expenditure on health has been increased by 571% to PKR 54Bn from PKR 8Bn in FY2010. But it is seriously doubtful whether this huge increase in health allocation has effectively translated into a better health scenario across the province.



### How effective is PKR 120Bn in improving law and order in Karachi?

Expenditures for maintenance of law and order and public security in Sindh have risen drastically by 324% from PKR 28Bn in FY10 to PKR 120Bn in FY16B. Although peace in Karachi is gradually improving over the last year or two, the city had to face a torrid time post implementation of the 18th amendment, when the provincial govt. was virtually helpless in the face of organized crime. The federation often has to remain a silent spectator amid deteriorating law and order situation by maintaining that this is a provincial subject. Even now there is an element of friction between the federal and provincial govts. over how to handle security in Karachi.

### **Conflict of federal and provincial laws and jurisdictions**

As was feared right at the onset, the 18th amendment has created a situation where federal laws are contradicting with provincial laws and issues of jurisdictions over tax applicability have arisen. The federal government has imposed capital gain tax (CGT), which experts opine is the sole prerogative of the provinces. The Sindh govt. rues that there are many financial recoveries which come under the ambit of the Sindh government under the 18th amendment, but are still being charged by the federal government. For instance, it claims that the right to charge Federal Excise Duty (FED) on services lies exclusively with the provincial govt., as is the collection of Zakat.

From another perspective, the federal government is reportedly exhibiting reluctance in transferring the responsibilities of some important institutions like the Employees Old Age Benefit Institute (EOBI) to the provinces, especially in the wake of the provinces' shortcomings in building their capacity for handling such socially important portfolios.

Complexity of jurisdictions is also evident in labor related cases in courts in Sindh, where many employers have challenged the applicability of federal laws to provinces, as the provincial govt. has not yet brought about the relevant changes in the labor laws as was required in the aftermath of the 18th amendment.

### **Indifference of provinces in levying progressive taxes**

In terms of taxation as well, provincial govts. have largely been reluctant towards genuinely broadening the tax, and moving towards a direct and progressive tax system after the 18th amendment. Instead of reducing dependence on the federal government, provincial reliance appears to have increased. The detrimental factor in all provincial revenue collection is the lack of political will to tax the affluent sector, especially agricultural land lords and urban immovable property.

### **Tax on agri income, still a distant dream**

Politically savvy mighty landowners, through the 18th constitutional amendment, have actually deprived the legislatures from levying wealth tax on their colossal immovable property, and on their heavy agricultural

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incomes. In fact, provincial powers to tax agriculture income, capital gains and services present a significant roadblock to tax reforms. Estimates suggest that the agri income tax can help generate up to PKR 250Bn for the exchequer. However, provincial govt.'s have times and again refrained from taking an initiative on the subject with the result that this very important sector contributing 21% to national GDP remains virtually exempt from tax.

To cite an example, before the budget for FY15 was presented in the Sindh provincial assembly, there was a whiff that agricultural taxes in the form of a Minimum Income Tax (MIT) and Agriculture Income Tax (AIT) would be enacted through amending the Sindh Agriculture Income Tax Act 1994. Not so surprisingly, there was no mention of the tax when the budget was announced and the issue was pushed to the back burner, yet again.

### **Good SRB performance of no avail to Karachi and its businesses**

Sindh has the distinction of being the first province in Pakistan to establish an automated revenue collection authority in 2011 in the form of Sindh Revenue Board (SRB) for collection of taxes by the provinces. The Sindh Revenue Board (SRB) has been the star performer in terms of revenue collection as it managed to collect PKR 109Bn against budgeted revenue target of PKR 107Bn in FY15 and revenue collection of PKR 28.45Bn in 1HFY16 is 33% higher than corresponding period of last year.

However, none of this high revenue benefits the business community of Karachi and Sindh, nor does it result in any significant betterment in the weakening infrastructure of the province and its capital.

SRB was envisaged to be the primary source of collection and monitoring of all the tax revenue functions in Sindh, yet no other tax is assigned to it apart from sales tax collection as all other taxes are collected through the traditional Excise & Taxation Department that is infested with inefficiency and corruption. Collection of agricultural income tax and other land taxes is with Board of Revenue (BoR), the oldest taxation department. Tax collection by Sindh could have been much better had sincere efforts been made by the govt. to merge the three departments into an automated single entity to make tax collection efficient.

### **NFC criteria needs to be applied to Karachi as well**

There is also a dire need to apply the NFC criteria, used for allocation of resources to the provinces, to cities within the Sindh province itself. The resultant rationalization in budgetary allocations would ensure that Karachi gets its due share of resources which it urgently needs to improve on its crumbling infrastructure and civic facilities. With the NFC criteria in place, Karachi would comfortably and justifiably have access to more than 60% (PKR 107Bn for FY16) of the Sindh development allocations, due to it being the city with the highest population, highest revenue generation, and extreme poverty with more than 560 Katchi Abadis.

### **Staying in the EU GSP – Not without due attention to labor issues**

Pakistan's preferential access to the EU under the GSP+ scheme is under threat due to non-compliance with multiple conventions, including those of labor rights, as stipulated under the scheme. Although the portfolio of labor and manpower has been shifted to the provinces, grant of provincial status to all labor laws, which was to be achieved in June 2011, remains incomplete. Bills on six labor laws have been put up at the Sindh Assembly for passing them as laws including the Sindh Bonded Labor System (Abolition), Sindh Payment of Wages, Sindh Factories, Sindh Terms of Employment (Standing Orders), Sindh Workers Compensation, Sindh Companies Profits (Workers' Participation) and Sindh Minimum Wages Bill of 2015. Nonetheless, the provincial and national governments need to expedite the necessary legislations to remove discrepancies with the ratified ILO Conventions under GSP. Adoption of necessary measures to strengthen institutional mechanisms to promptly address violation of workers' rights and implement labor laws to arrest widening gaps in establishing decent work is urgently needed.

At the same time, the federal govt. must also recognize that it does not stand absolved of its responsibilities to oversee implementation of the 8 labor related conventions stipulated under the GSP+ scheme, and that the matter should not be totally left over to the provinces to handle at their own discretion. GSP+ has been granted to the nation as a whole and not individually to the provinces, and that the federal govt. has an integral role to play in this regard.



### Trickledown effect of devolution still non-existent

Interestingly, an earlier World Bank policy paper has criticized the 18th amendment on the many complexities it has created due to its jurisdictional issues. In fact, it goes on to say that the amendment has the potential to create a 'jungle of confusion', resulting in higher transaction costs for citizens and businesses. Provincial powers to tax agricultural income, capital gains and services present significant roadblocks to tax reforms. Nonetheless, the paper stresses that the amendment must not be considered as a total solution to Pakistan's governance woes; it must be seen as only the first, incomplete step towards reforming governance in the country, and that to complete the process, more fundamental reforms are needed, so as to ensure that the public sector effectively serves most of the public interests.

Hence, although there is a general consensus on the theoretical efficacy of the 18th amendment over the decentralizing of powers from the center to the province, fixing more responsibility to the provinces in generating their own revenue and making the provinces directly accountable for their spending while simultaneously moving the onus of better governance to them, the trickledown effect of this vertical devolution to the masses is largely missing. Fiscal and policy controls still rest with the provincial legislatures and executives, while good governance has not been passed to the grass roots i.e. district, union council and municipal levels so far. Thus how effective the 18th amendment has been till yet in bringing a better governance and hence a better life for the citizens of Pakistan is a contentious issue, and needs to be pondered over.

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