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Centre–Province Relations in Pakistan: A Case Study of Khyber Pakhtunkhwa (2008–2013)

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Abstract: Pakistan is a multi-ethnic state, and as such, there has been a federal structure since its creation in 1947 to address ethnic issues effectively. The center–province relations have, however, suffered many ups and downs on certain issues, such as provincial autonomy and distribution of financial resources. The study in hand aims to investigate the relations between the Provincial Government of Khyber Pakhtunkhwa and the Federal Government of Pakistan at the center from 2008 to 2013. The focus here is on the PPPP-led government at the center and the ANP-led government in the Khyber Pakhtunkhwa province of Pakistan. The study proves that there was a significant improvement in the center–province relations in the case of the province of Khyber Pakhtunkhwa during the period under study. The introduction of the 18th Amendment to the constitution of Pakistan settled the longstanding issues of provincial autonomy and replaced the colonial name of the Province of North–West Frontier Province with Khyber Pakhtunkhwa. In the financial sphere, the 7th National Finance Commission (NFC) Award was a major achievement that enhanced the provincial share in financial resources. However, differences in the net-hydel profit could not be settled.

Introduction

After its creation in 1947, Pakistan adopted a federal system. The colonial legacy, the Lahore Resolution of 1940, and the questions of provincial autonomy and ethnic identities were the main reasons. The Objectives Resolution and all three Constitutions (1956, 1962, and 1973) provided a federal structure. However, the nature of the federation varied, and hence the center–province relationship mostly remained strained. The ethnic–nationalist parties remained unsatisfied on the matter of provincial autonomy, complaining of the overpowering of the central government. Sheikh Mujibur Rahman’s six-point formula was the demand of East Pakistanis for maximum provincial autonomy, and the country ultimately split on the issue (Arshad and Khan 2019).

The 1973 Constitution was an improvement as it enhanced provincial autonomy by extending the list of provincial subjects, providing bicameral legislature with equal representation to all provinces in the upper house, and giving protection to regional languages. However, the center–provinces’ relations still often remained under stress, perhaps due to the fiscal and administrative control of the federal government on the subjects in the concurrent list. The notion of *Punjabizing* the country underscored the plea for provincial autonomy in other provinces, including Khyber Pakhtunkhwa. The inductions to the 1973 Constitution by the military regimes also affected the federal structure and the nature of center–provinces relations, and hence,

restoration of the original constitution and enhanced provincial autonomy became part of most of the political parties' demands (Waseem 2010).

As the result of the 2008 General Election, the Pakistan People's Party Parliamentary (PPPP) succeeded in forming a coalition government at the center with the support of the Pakistan Muslim League (N) of former Prime Minister Nawaz Sharif and the Awami National Party (ANP), a Pakhtun-nationalist party. The ANP formed a government in the province of Khyber Pakhtunkhwa (then known as the North-West Frontier Province) with the help of the PPPP. It was for the first time in the history of Pakistan that the ANP emerged as the largest majority party in the Khyber Pakhtunkhwa Assembly, and hence its leader, Amir Haider Khan Hoti, was elected as Chief Minister of the Province. This period from 2008 to 2013 is important in the history of Pakistan as certain constitutional amendments and legal steps positively impacted center-province relations, particularly with reference to Khyber Pakhtunkhwa. The long-standing issues of renaming the province and provincial autonomy were settled. Currently, Part V of the Constitution of Pakistan, comprised of Articles 141 to 151, determines the nature of relations between the Central/Federal Government and federal units (the Provinces). The nature of relations between the Federal Government and the Province of Khyber Pakhtunkhwa is discussed here from 2008 to 2013, when there was the PPPP-led government at the center and the ANP-led government at the province.

The 18th Constitutional Amendment and the Province of Khyber Pakhtunkhwa

The 18th Constitutional Amendment is a milestone in Pakistan's history, as it repealed most of the dictatorial insertions and restored the true spirit of the federation by increasing provincial autonomy. The Amendment was a reflection of the attachment of two main

political parties, the PPPP and PML-N, to the Charter of Democracy they had inked in 2006. Under the Charter, both parties expressed their commitment to developing a federation where there would be no discrimination against the federal units and that they would encourage decentralization and devolution of power. The parties also vowed to maximize provincial autonomy and the empowerment of the people at the mass level (Text of the Charter of Democracy, 2006).

As a result of the 2008 election, Pakistan People's Party Parliamentarians formed a government under Syed Yusuf Raza Gilani as Prime Minister. After replacing General Pervez Musharraf with Asif Ali Zardari as President of Pakistan, the government embarked upon constitutional reforms. A parliamentary committee was constituted, which was comprised of 26 members belonging to different political parties and led by Mian Raza Rabbani. The Committee held around 80 meetings and unanimously approved a package of constitutional reforms, which it presented to the National Assembly in the form of the 18th Amendment Bill. The Assembly passed the amendment on 8 April 2010, and the Senate on 15 April 2010. President Zardari finally assented to the amendment on 19 April 2010, and hence it became part of the Constitution of Pakistan (Khan, Farman & Bakhtiar, 2021).

The 18th Amendment modified 102 Articles, either by amendment, insertion, substitution, or deletion. It made, under Article 6, the abrogation, suspension, or subversion of the Constitution or any part thereof an act of high treason. It was almost the repeal of the 17th Amendment, introduced by General Pervez Musharraf. Fundamental rights were increased by injecting the right to a fair trial under Article 10A, the right to information under Article 19A, and the right to education under Article 25A (Ahmad, 4 September 2020). The Amendment repealed the controversial Article 58.2(b), under which the President of Pakistan could dissolve

the National Assembly. It also provided for electoral and judicial reforms and the establishment of caretaker governments (Khan, Farman & Bakhtiar, 2021).

In connection with Khyber Pakhtunkhwa, the renaming of the Province and provincial autonomy were matters of immense importance. Both had been the longstanding demands of the ruling Awami National Party and were part of its manifesto for the 2008 election (Awami National Party 2008).

The 18th Amendment replaced the colonial name of the North–West Frontier Province (NWFP) with Khyber Pakhtunkhwa by amending Article 1. The Amendment was passed by a thumping majority in both houses of parliament. The Pakistan Muslim League (PML), however, opposed the change of name to Khyber Pakhtunkhwa, claiming it was not a consensus name. Its members, Amir Muqam, Sardar Shajehan Yusuf, Kashmala Tariq, Sardar Jamal Laghari, and Saleem Saifullah, opposed the name and suggested "Sarhad" instead, but was rejected in both houses. Waseem Sajjad demanded that PML agree to a name if it was acceptable to all. Saleem Saifullah and Shajehan Yusuf also demanded the formation of a new province, 'Hazara.' All other parties, however, endorsed the name of Khyber Pakhtunkhwa. PML–N's role was crucial in striking a deal with ANP, and the prefix Khyber was added upon its insistence, after which it supported the Amendment (Adil & Afridi, 2020).

The change of name from NWFP to Khyber Pakhtunkhwa had a long history. The British carved out the province in 1901. At the time of Pakistan's independence, the nationalist leaders led by Khan Abdul Ghaffar Khan demanded the Pakhtunistan option be included in the referendum to be held under the 3rd June Plan 1947, but it was rejected. After its creation, the Pakhtunistan issue continued. Khan Abdul Ghaffar Khan held that by Pakhtunistan," he meant only renaming the colonial name of the NWFP and granting provincial autonomy.

However, the attachment of the Afghan government to the issue made even this stance controversial. (Hakimzai 2020, 124–133). Khan Abdul Wali Khan adopted a pragmatic approach and considered other names as well, such as Afghanistan and Pakhtunkhwa. In 1997, the ANP entered into an alliance with the PML–N and joined the government both at the center and in the province. ANP claimed that Mian Nawaz Sharif, leader of the PML–N, had agreed with the change of name of the province. But when, in November 1997, the ANP moved the 'Pakhtunkhwa Resolution' in the Provincial Assembly, PML–N members and supporters in the province harshly opposed it. The opposition to the resolution came from members of the Provincial Assembly from Hazara and D. I. Khan. The Hazara Leaguers warned the Prime Minister that the issue could create a much bigger problem for the party in the Hazara region. (Ahmad, 2005, p. 180). Now again, the Hazara Leaguers of the PML–N, particularly former Chief Minister Sardar Mehtab Ahmad Khan Abbasi, were opposed to the Pakhtunkhwa name. But the party leadership supported the change of name and convinced the ANP leadership to adopt the name Khyber Pakhtunkhwa, which was accepted by other parties as well (From NWFP to Khyber Pakhtunkhwa, 2010)

Another important issue related to center–province relations was provincial autonomy. The 18th Amendment abolished the concurrent list and moved 40 of the 47 items to the provinces. Some 20 miniseries were also surrendered to the provinces. Provincial autonomy was guaranteed by amending Articles 70, 142, 143, 144, 149, 157, 160, 161, 167, 172, 232, 233, and 234 of the constitution. These provisions gave vast powers to provinces to decide on issues related to the generation of hydroelectric power, natural gas, and the preparation of the NFC Award and enact laws on matters occurring within their dominion. The Council of Common Interest was also reorganized, and the provinces were given

representation (Khan, Farman, & Bakhtiar, 2021). The Amendment transferred some forty subjects to the provinces, including the laws governing marriages, contracts, management of contagious and infectious diseases, labor, education, environmental degradation, trade unions, etc. It also modified the division of resources so that the provinces could bear the financial liabilities of the newly transferred obligations and reformulated the mechanism of income distribution among the provinces by considering the graph of poverty and the inverse population density of the provinces (Ahmad, 2020).

The 18th Amendment authorized the federating units by giving them a constitutional say, whereby the Central Government could not enforce a state of emergency if the provincial government did not agree. Moreover, Article 140-A was inserted, which empowered the provinces to establish local government bodies (Khan, 2016). Under Article 129, it was now obligatory for the governor to follow the Chief Minister's advice in the exercise of his powers. Under Article 142. ii, the provincial legislative assemblies could now legislate solely on residuary matters. Article 156 was amended, and the National Economic Council (NEC) was reorganized. Now Chief Ministers of the Provinces were also to be the members of the NEC. The NEC was authorized to appraise the country's overall situation and give advice to the Federal and Provincial Governments for planning on fiscal, commercial, social, and economic issues. The Council was bound to meet twice a year. Under Article 160, the Provincial government's royalty right on gas and petroleum was acknowledged (National Assembly of Pakistan, 2010).

The constitutional amendments introduced, however, were not without implications for the provinces, particularly Khyber Pakhtunkhwa. These amendments enhanced provincial autonomy, no doubt, but also increased provincial responsibilities and liabilities. There

were apprehensions about the lack of a proper mechanism for transferring several federal ministries to the provinces. The issue of executing 35 international protocols related to matters stretching from environment to standard of living was also a matter of concern (Waseem, 2010). The capacity of the provincial government to deal with the new responsibilities was also questioned. The strongest reservation was on the subject of education. It was argued that the curricula and textbooks would now lack uniformity, and standards would decline. It was also feared that the unity and ideology of the state would now be at risk (Siddiqui, 2010).

For Khyber Pakhtunkhwa, there was another serious implication. The renaming of the province created a controversy, and the Hindko-speaking people of the Hazara division strongly protested. They launched a movement for the creation of a separate province of Hazara (Munir, 2017).

The 7th National Finance Commission (NFC) Award

One big achievement in respect of center-province relations was the agreement on the 7th National Finance Commission Award between the center and the governments of the four provinces. The NFC Award is actually the distribution of state revenue between the center and federating units (provinces). Article 160 of the Constitution makes it obligatory for the President of Pakistan to establish a National Finance Commission comprised of the Federal Minister of Finance, the Finance Ministers of the Provinces, and such other persons as may be appointed by the President in consultation with the Governors of Provinces. The National Finance Commission formulates the mechanism of revenue distribution between the Federal and Provincial Governments and decides on the making of grants-in-aid by the Federal Government to the Provinces. It also determines the nature of exercising the borrowing power of both the federal and

provincial governments. The award is granted for five years, and implementation is discussed biannually.

The distribution of financial resources has always been a matter of concern in Pakistan. The history of NFC Awards goes back to the 1935 Government of India Act, which provided a federal structure. Accordingly, in 1936, the income was divided between the central and provincial governments according to what was known as the Niemeyer Award. After the creation of Pakistan, the first award was announced in 1951, called the Raimsan Award. This award laid down a 50:50 share of the divisible pool, while the share between East and West Pakistan was 45:55. The next award was implemented through Presidential Order No. 23 on July 1, 1962. The mechanism of distribution between East and West Pakistan was fixed at 54:46 for East and West Pakistan, respectively. A mixed set of criteria was provided for the vertical distribution of revenues between the central government and two provinces. For example, income tax was distributed 50:50 between the federation and two provinces; in respect of sales and excise taxes, 60% and the remaining taxes, 100%, were allocated to the federating units. The NFC of 1964 fixed 65% for provinces. However, the horizontal distribution between the two provinces remained the same at 54:46. The NFC award of 1970 enhanced the share of provinces to 80 percent (Khan, 2020).

After East Pakistan separated in 1971, the 1973 Constitution was adopted, and the distribution of the divisible pool was governed by Article 160. Under the new Constitution, the 1st NFC was set up on February 9, 1974, and implemented on 25 July 1975. The 2nd NFC was constituted on 11 February 1979 but remained inconclusive. The 3rd NFC, established on July 25, 1985, also could not finalize the award. The 4th NFC was constituted on 23 July 1990 and implemented on 21 July 1991. The Award of the 5th NFC constituted on 10 December 1996, was enforced on 1 July 1997. The 6th NFC, set up twice

in 2000 and 2003, again ended in failure. President Parvez Musharraf, therefore, announced an award of his own in 2006. It fixed the provinces' share at 41.50% for the year 2006–07 and was to be gradually increased to 57.50% for the financial year 2011 and onward.

The first four NFC Awards maintained the vertical distribution ratio of 80:20 from the center to the provinces. The 5th NFC Award (1997) increased the provincial share to 37.7%. The criteria for the horizontal distribution among the provinces was population (Khan, 2020).

The historic 7th NFC Award was signed by Federal Minister of Finance Shaukat Tareen and the four Provincial Finance Ministers at Gwadar on 30 December 2009. Prime Minister Syed Yusuf Raza Gilani and the four Chief Ministers of the Provinces were also present on the occasion. Under Accord, the share of provinces in the divisible pool was increased from 47.5% to 56% in the first financial year, 2010–11, and to 57.5% afterward. The revenue distribution criteria were 82% weightage given to the population, 10.3% to backwardness or poverty, 2.5% to the generation of revenue, 2.5% to the collection of revenue, and 2.7% to the area. Accordingly, Punjab got 51.74%, Sindh 24.55%, Khyber Pakhtunkhwa 14.62%, and Balochistan 9.09%. As a result, the provinces had to receive an additional Rs227 billion in the first year besides the already sanctioned Rs550 billion in revenue. The amount had to rise to Rs850 billion the next year and to Rs1250 billion by the fifth year (Dawn 31 December 2009).

One important feature of the Award was that the Khyber Pakhtunkhwa Province had to get an additional 1% of the total divisible pool for the entire period of the Award to compensate for the damages caused by the militancy. Hence during the first financial year of the Award, Khyber Pakhtunkhwa had to receive Rs. 15 billion. Further, the provinces were allowed to collect sales taxes if desired. However, the provinces were required to raise the tax ratio to 15% of the

GDP by 2014–15 by taxing agriculture and the real estate sectors (Sabir, 2010).

The Federal Minister of Finance termed the Award a historic achievement as it was based on consensus and, besides population, other factors had also been acknowledged. Khyber Pakhtunkhwa Chief Minister Haider Hoti said that they had laid the foundation for strengthening the provinces. He admitted that the Award had significantly benefited the provinces (Dawn, 31 December 2009).

The Issue of Net Hydropower Profit

The issue of net hydropower or hydel profit between the Federal Government and Khyber Pakhtunkhwa has a long history. It was in 1986 that the then President General Ziaul Haq instituted a high-profile committee under Aftab Ghulam Nabi (AGN) Kazi, a renowned bureaucrat and the then Deputy Chairman of Planning. Other members of the committee were the Federal Secretary of Finance, the Additional Secretary of Water and Power, and the Secretary of Finance of Khyber Pakhtunkhwa (then NWFP). The Committee also laid down that net hydel profit would be calculated based on what consumers paid. The calculation would be made retroactively by subtracting first the transmission and distribution costs. It was also decided that the loss of one power station could not be adjusted by the profit of another power station. In 1991, the Council of Common Interest (CCI) recognized the AGN Kazi formula for the settlements of the past and future. The Water and Power Development Authority (WAPDA) started disbursing Rs 6 billion annually on an ad hoc basis from the 1991–1992 financial year. In a number of meetings arranged in 1993, 1997, and 1998, the Council of Common Interest reiterated that the provinces' right to net hydel profit would be safeguarded even if the WAPDA was privatized or unbundled. Pakistan's Supreme Court also upheld the Kazi formula in its decision in the case of Gadoon Textile. The Court stated that it was crystal clear

that the CCI had fulfilled its constitutional responsibility to calculate the net profit to be paid to the relevant federal units. However, irritants went on to interfere with the smooth operation of Hydropower's constitutionally protected net profit transfer mechanism to Khyber Pakhtunkhwa. As a result, Mr. Sirajul Haq, the then Khyber Pakhtunkhwa Finance Minister, raised the issue once again during the MMA government in 2005 (2002 to 2007). Consequently, an arbitration tribunal was set up to resolve the issue and determine the net profit payable to Khyber Pakhtunkhwa from the fiscal years 1991 to 2005. As a result, the arbitration tribunal delivered its award on 9 October 2006. The court awarded Rs 110 billion to Khyber Pakhtunkhwa, which the WAPDA was required to pay in five installments within three months of the award for the period from the financial year 1991 to the financial year 2005. The Kazi Committee formula was used as the base for the calculation of net-profit at that time (Inayatullah Khan, 2020). The federal government had to serve as the guarantor for WAPDA. Instead of submitting to the Award, WAPDA challenged it in a civil court in Islamabad. Subsequently, the Khyber Pakhtunkhwa government approached the Supreme Court, where the case remained pending (ReliefWeb, 2009).

During the era under study, the issue again stressed center-province relations. When the ANP-led government took over power, the issue was discussed with the Federal Government on different forums and through correspondence. On 15 September, the Chief Minister of Khyber Pakhtunkhwa, while talking to a delegation from Balochistan, told them that the Provincial Government was planning a Jirga led by him to see President Zardari and Prime Minister Gilani settle the dispute. He said that the issue would be raised on the basis of the Arbitration Tribunal Award of 2006 for the arrears of Rs 1100 billion. He said that the Federal Government owed Rs 100 billion to the province since 1991, but their

claim was of net profit since 1973, and they would stand firmly on their demand (Dawn 16 September 2008).

After a tragic Meena Bazar suicide attack in Peshawar in October 2009, Prime Minister Gilani visited Peshawar and headed a cabinet meeting. At the occasion, he announced that he had accepted the province's demand for the payment of Rs 110 billion in arrears in relation to the net hydel profit. He disbursed a cheque for Rs. 10 billion in this connection. He said that the amount would be paid in installments of Rs. 25 billion in the first quarter of every financial year. He also announced the formation of a technical committee to determine the province's net hydel profit for the future (NWFP in Focus, 2009).

PM Gilani's announcement was termed a positive development as it would strengthen the provincial government's finances. Chief Minister Hoti thanked Prime Minister Gilani and Finance Minister Shawkat Tareen for the release of the amount and told them that it would stabilize the province's economy. He further said that the provincial government had initiated efforts in consultation with all political forces in the province for the attainment of net hydrocarbon profit since its inception. (*Roznama Mashriq*, 20 November 2009).

A milestone was achieved when the 18th Amendment also amended Article 161, and the province's right over the net hydel profit was recognized. It was provided that the net hydel profit shall be paid to the province which generated the power. It further laid down that this net profit should be calculated by deducting from the income generated by the wholesale supply of electricity to hydroelectric busbars at a rate determined by the Council representing the general interest and operating costs. Station, which must include any amounts payable as taxes, duties, interest, or returns on investments, as well as depreciation, as well as elements of obsolescence and overhead, and

reserves (Constitution of the Islamic Republic of Pakistan, Article 161)

The technical committee constituted by Prime Minister Gilani made no progress. The committee was composed of the representative of the Provincial and Federal governments and WAPDA. The main issue was the decision of the 2006 Tribunal Award, which besides the payment of arrears, had also uncapped the future net profit and asked the Federal Government to pay Rs24 billion, as a yearly share, to the province with a 10 percent growth in the subsequent years. Chief Minister Hoti expressed his disappointment with the performance of the technical committee on the floor of the Provincial Assembly on 21 June 2011 and said that delaying tactics were being used. He assured that all political forces would be taken on board on the important issue. He informed the House that the Provincial Government had received Rs35 billion out of Rs110 billion arrears of the net hydel profit while the next installment of Rs25 billion was in the pipeline. He also informed the members of the Assembly that royalty on account of oil and gas had reached Rs15 billion annually (Dawn, 22 June 2011).

On 31 October 2011, the Provincial Government convened an All Parties Conference so as to force the Federal Government to timely reimburse the arrears. The conference was informed that WAPDA had failed to pay three payments of Rs 6 billion each from Hydel's net profit and pursued delaying tactics to execute an already agreed formula. (Buneri, 2011).

The Khyber Pakhtunkhwa Government submitted many written requests and reminders and used several forums to discuss the matter with the officials of WAPDA and the Federal Government so as to get the annual share uncapped but without any positive response. Even in July 2011, Chief Minister Haider Hoti, during the meeting of the Council of Common Interest, verbally requested Prime Minister Gilani to take a personal interest and resolve the

issue. The interest of the Federal Government and WAPDA could be judged from the fact that instead of the Provincial Government's persistent requests, the technical committee could meet only twice from 2009 to 2011, and no meeting could be held after that. A senior official of the Provincial Government told in November 2011 that no one paid heed to the requests of the provincial government, as both the Federal Government and WAPDA were not responding positively to its frequently sent letters for arranging the meeting. The official further said that the last meeting had been held over a year ago but to no avail. Actually, the Provincial Government had claimed Rs 24 billion annually under the Arbitration Tribunal decision. Even in arrears of Rs110 billion, the official confirmed, Rs50 billion were to be paid by WAPDA. He demanded that either the AGN Kazi formula or the Arbitration Tribunal decision be accepted (Dawn 23 November 2011).

The Provincial Government also considered the option of moving the court so as to receive the unpaid net hydel profit. A high-level meeting chaired by Ghulam Dastagir Akhtar, the Khyber Pakhtunkhwa Chief Secretary, and attended by the Secretaries of Finance, Energy, and Power, among others, discussed the issue of pending annual installments in addition to a modus operandi for timely recovery of outstanding amounts from the Federal Government. The meeting expressed disappointment over the non-payment of arrears and delaying tactics. Financial complications produced as a result of delaying the net hydel profit installment were also deliberated. It was pointed out that the Chief Minister had raised the issue in the Council of Common Interests, but the Prime Minister proposed to discuss it with the Federal Finance Division. Accordingly, it was decided to raise the matter with the Finance Division in Islamabad. In case, the efforts failed, it was decided, the provincial government could exercise the right to take the matter to court (Buneri, 2011).

In February 2013, the provincial government again asked for the settlement of the net hydel profit. In a press conference, the Finance Secretary of Khyber Pakhtunkhwa, accompanied by Finance Minister Muhammad Humayun Khan and the Minister for Information Mian Iftikhar Husain, informed that even in the annual Rs6 billion net profit, the Federal Government had paid only Rs3 billion during the financial year out of Rs12 billion. They, however, confirmed that the Provincial Government had received Rs 33 billion on account of the war on terror (The Express Tribune, 22 February 2013).

The WAPDA and Federal Government held that the 2006 Arbitration Court decision was repugnant to Article 160 of the Constitution, as according to it, only the Council of Common Interest (CCI) was a constitutional body to settle such issues and determine the size of the net hydel profit. The award was, therefore, void as an illegal encroachment upon the prerogative of the CCI (NHP arbitration award violative of ToRs, 2007). The stance of the Khyber Pakhtunkhwa Government was that it would not accept the reviving of issues already settled and that any settlement must conform to the parameters of awards, and the calculation of net Hydel profit needed to be in conformity with Kazi Committee Methodology (KCM), even endorsed by the Council of Common Interest (Hydro profit arrears payment staggered, 2011).

The above discussion proves that the net hydel profit issue dominated the center-province relations during the period under study. Instead Provincial Government's efforts, the issue of uncapping the net profit could not be dissolved. It is still a bone of contention between the two sides.

Council of Common Interest (CCI)

The Council of Common Interest (CCI) is a constitutional body that provides for the dispute resolution mechanism and coordination between the center and provinces and among the

provinces. The Prime Minister serves as chairman of the Council, while provincial chief ministers and three representatives of the Federal Government should be its members. It handles and supervises the matters in Part II of the Federal List, introduced under the 18th Amendment. The Prime Minister should constitute the CCI within three months of taking the oath of office, and there should be at least one meeting in ninety days or on the request of provinces on urgent matters. (Constitution of the Islamic Republic of Pakistan, Articles 153, 154, and 155).

The 18th Amendment abolished the concurrent list, which enhanced the importance of the CCI. Before the passage of the 18th Amendment, only 11 meetings could be arranged since 1973, while ten meetings were held after the passage of the Amendment until January 2013. There were three meetings arranged in 2010, three in 2011, three in 2012, and one in 2013 before the General Elections in May 2013. The meetings discussed and decided crucial matters in respect of center–province relations (Government of Pakistan, n. d.).

In the post–18th Amendment period, the CCI considered some vital issues of national interest, like the dispute over royalty on hydropower between the center and Khyber Pakhtunkhwa province, the census, the formulation of national mineral policy and related matters, water distribution issues, oil and gas explorations, and the development of the basic infrastructure in various areas of social, economic, and political spheres (Khan and Bakhtiar, 2020).

There were different issues related to Khyber Pakhtunkhwa that were discussed and decisions taken on. In its meeting on July 18, 2010, the CCI approved the construction of the Diamer–Basha Dam. The CCI was briefed that the Diamer–Bhasha Dam, when completed in 2019, would have a storage capacity of 6.4 MAF of water and would produce 4500 MW of electric power. It was also stated that the Dam could recover its

costs within eight years after its completion. (Business Recorder 19 July 2010). Accordingly, the foundation stone was laid by Prime Minister Gilani on October 18 October 2011. Besides others, he was also accompanied by Khyber Pakhtunkhwa’s Chief Minister and Governor Masaud Kausar (Business Recorder, 19 October 2011). The Chief Minister of Khyber Pakhtunkhwa, Ameer Haider Hoti, welcomed the construction and stated that the dam would open up new avenues for agricultural and economic development in the backward mountainous region (Oil Price, 2011). The September 2010 Council’s meeting decided on the disbursement of RS 20000 to the flood-affected people and the extension of the agriculture loan if provinces agreed (Government of Pakistan, 2010–11).

Conclusion

In a multiethnic federal state like Pakistan, center–province relations have always been a sensitive matter. The question of provincial autonomy and ethnic identities have been the main concerns of the provinces, which have often led to strained relations between the central and provincial governments. The issue even divided the country in 1971, when East Pakistan became an independent state of Bangladesh. Although the 1973 Constitution was an improvement over the previous ones, the provinces complained about the overpowering power of the center. In connection with Khyber Pakhtunkhwa, matters of provincial autonomy and ethnic identities have been of serious concern, as the province has a strong base of nationalist parties like the Awami National Party and the Pakhtunkhwa Qaumi Party.

The period 2008–2013 saw a significant improvement in relations between the center and the Khyber Pakhtunkhwa Province. The introduction of the 18th Amendment to the Constitution redefined federalism in Pakistan. It augmented provincial autonomy by abolishing

the concurrent list and transferring some forty subjects and 20 ministries to the province. The amendment ensured an active role for the province in the National Economic Council and the Council of Common Interests. The amendment also replaced the name of the province NWFP with Khyber Pakhtunkhwa, which had been a longstanding demand of the ANP, the then-ruling party of the province.

The 7th NFC Award was another positive development. The award enhanced the share of provinces, including Khyber Pakhtunkhwa, in the divisible pool. Khyber Pakhtunkhwa got an additional 1% for the entire period of the award so as to compensate for the damages caused by militancy and military operations. The criterion of distribution also included 10% allocated to poverty, which was the demand of Khyber Pakhtunkhwa.

The Council of Economic Interest was also revived, which became an important forum to settle center-province conflicts. The Council held a number of meetings and discussed and settled important issues, such as the construction of the Diamer-Bhasha Dam and the relief package for the 2010 flood-affected people.

The issue of net hydropower profit, however, remained a bone of contention between the federal and provincial governments. Some arrears were released, but the Khyber Pakhtunkhwa claim for arrears under the 2006 Tribunal Award was not acknowledged. The government of Khyber Pakhtunkhwa raised the issue on different forums but to little avail.

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