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## Provincial Legislation in the Light of the Eighteenth Constitutional Amendment Act: A Case Study of Khyber Pakhtunkhwa Assembly

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### Abstract

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**Keywords:** KP Assembly, 18th Amendment, Legislative, Federal Government, Interprovincial

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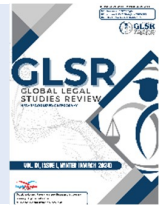
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## Title

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#### Abstract

*The 18th Constitutional Amendment Act of 2010 completely changed Pakistan's federal system when considerable laws and legislative, executive, and authority for budget management were granted and handed over to provinces. This research investigates the effectiveness of provincial laws in the Khyber Pakhtunkhwa Assembly through the 18th Amendment. This research also shows the improvement in governance and legislative autonomy and KP's capabilities for managing this devolution of powers. The important laws and legislative measures are highlighted in this research which were carried out after the 18th amendment, with mainly and particular significance on the health care, education system, and local government as well. However, the KP Assembly has significantly exercised its authority and enhanced its legislative power to effectively address regional needs. Despite ongoing challenges and difficulties with interprovincial collaboration, they have managed to achieve this progress.*

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**Keywords:** [KP Assembly](#), [18th Amendment](#), [Legislative](#), [Federal Government](#), [Interprovincial](#)

#### Introduction

This study attempts to explore the Provincial Legislation in Light of the Eighteenth Amendment Act to the constitution of the Islamic Republic of Pakistan. The Eighteenth Constitutional Amendment Act 2010 brings far-reaching effects to the constitution generally and particularly in terms of provincial autonomy. The 18th Amendment Act

has strengthened the federal system by amending various articles of the Constitution. However, in this move towards federalism, the most vivid is amending the Fourth Schedule and subsequently the omission of the Concurrent Legislative List (CLL), which basically gave powers of legislation on a subject to both the federal and provincial legislatures. After the amendment, the federal



parliament is capable of legislating only on the Federal Legislative List (FLL) Part-I and sharing legislation with provinces for the matters listed in Part-II of FLL, and obviously not in the position to legislate on any subject that was mentioned in the abolished Concurrent Legislative List (CLL). The power of legislation on the subjects that were mentioned in the abolished CLL has been transferred exclusively to the provinces. The Eighteenth Amendment Act also devolves responsibilities on the provinces to improve the delivery of services to the people in a large arena of subjects. The amendment has enhanced the fiscal, administrative, and legislative authority of the provinces. Decentralization and devolution of powers are the laudable aspects of the Act. Devolution brings government closer to the people and guides citizen improvement; in addition, it causes more efficient, accountable, and transparent service delivery (Burki, [2010](#) ).

The biggest beneficiaries of the devolution are the federating units which have full autonomy to legislate on subjects enumerated in the erstwhile Concurrent Legislative List. The provinces have been authorized for the delivery of government services within their respective territory including control over all such local public institutions. It means that all the residual functions that are not listed in the Federal Legislative List also fall within the provincial purview. For all financial and social services, the federating units have to assume a leading role in the enactment of laws and service delivery. In the post-Eighteenth Amendment Act, for a common dweller, the government that has to matter is mostly the government of the concerned province. The provincial legislative assemblies are supposed to enact necessary laws for the running of the affairs of the government smoothly. As far as seventy-six laws have been identified by the experts which were to be modified by the provincial assembly after the enactment of the eighteenth Amendment act (Ahmad, *The Endemic Crisis of Federalism in Pakistan*, 2010). A great deal of research work has been done on provincial autonomy through the 18th Constitutional Amendment Act 2010 (Act No. X of 2010) by eminent scholars, social scientists, economists, and journalists on the process of devolution soon after the 18th Amendment Act was promulgated. A brief review of relevant literature has been discussed below.

Abdullah Shah in his research article titled "The 18th Constitutional Amendment "Glue or Solvent for Nation Building and Citizenship in Pakistan?" explains the background to the Eighteenth Amendment Act in his research paper. According to the author, the 1973 constitution introduced a Concurrent Legislative List as part of the Fourth Schedule that itemized the shared responsibilities of the federal parliament and provincial legislative assemblies. The inclusion of CLL at the time of the promulgation of the constitution in 1973 actually aimed to allow the units a considerable interim period to the federating units for preparation prior to taking up their legislative and executive responsibilities. However, the central government by virtue of the CLL happened to encroach on provincial matters and even sometimes the local government responsibilities. The provincial governments, in turn, turned the local governments dysfunctional and paralyzed by interfering in the local government's affairs and taking over their responsibilities (Shah, [2012](#)).

"Making Devolution Work in Pakistan" is a very informative research article. The author –Aisha Ghaus Pasha – believes that the federal government has to retain more than 60,000 federal employees whose status has been made redundant as a result of this Act and whom the provinces appeared reluctant to accommodate. It was argued that only the employees already posted in various provinces would be accepted by the concerned provincial government. In the first phase, all four provinces accommodated only 15,000 federal employees who were already posted to the field offices in the provinces. Keeping in mind the transition arrangements in place, the federal deficit was anticipated to swell by about 3 percent, and together the federating units would be in surplus by the same quantity. Soon after the enactment of the Eighteenth Amendment Act, the extent of the federal secretariat was abridged by federal fifteen ministerial departments and seventeen ministerial divisions, reducing the size of federal ministerial divisions from fifty to thirty-three (Ghaus-Pasha, [2012](#)).

The federal government constituted the Implementation Commission under the chairmanship of Senator Mian Raza Rabbani to facilitate the implementation of the devolution process, comprising eight members from various parliamentary political parties. The Implementation

Commission carried out its functions by June 30th, 2011. Likewise, the four provinces also constituted their own implementation committees. These implementation committees comprised the political leadership as well as the members of the civil service to ascertain strategies for the smooth absorption of the devolved items. It is noteworthy, that the Federal government of Pakistan is responsible only for transferring funds for the additional provincial expenditures and liabilities till the end of the 7th National Finance Commission Award tenure (2010—1015). Such arrangements were essential because the Seventh NFC Award preceded the 18th Constitutional Amendment Act and therefore, the Act reflected the allocation of funds at the pre-Eighteenth Amendment Act time. There seem to be two possibilities regarding the new revenue-sharing system once the new award is agreed upon. First, the units' funds in vertical transfers may be enhanced in order to meet their additional expenditure requirements. Second, funding under the provision of equal federal and provincial share of minerals (article 172-III) can partially finance the additional funding requirements (Pasha, [2012](#)).

A Biography of Pakistani Federalism: Unity in Diversity' written by the Chairman Parliamentary Committee for Constitutional Reforms Senator Mian Raza Rabbani is one of the most relevant books written in the aftermath of the Eighteenth Amendment Act. The author remained the chairman of the committee constituted for the draft of the Eighteenth Amendment bill and he also oversaw the process of devolution as a consequence of the act. The author explains the history of federalism in Pakistan under various constitutions. The author believes that the Eighteenth Amendment Act, which introduced many amendments to the constitution particularly empowering the federating units, will improve the level of governance in Pakistan (Rabbani, [2011](#))

The study of literature demonstrates that there is no published research work on the laws enacted by the provincial assembly of Khyber Pakhtunkhwa in light of the Eighteenth Amendment Act. There is a dire need to fill the gap by conducting thorough work in the field to find out the administrative, executive, and financial impact of the devolution process.

## Research Questions

This study seeks to answer the following research questions.

- What is the total number of laws that need to be enacted by the provincial assembly in order to implement the Eighteenth Amendment act in true spirit?
- Which laws have been enacted by the provincial assembly in light of the Eighteenth Amendment Act?

## Objectives of the Study

The following are the objectives of this study.

- To explore the total number of laws that need to be enacted by the provincial assembly in order to implement the Eighteenth Amendment act in true spirit.
- To critically examine the current status of the laws that have been enacted by the provincial assembly in the light of the Eighteenth Amendment act

## Theoretical Framework

The theoretical framework for this research is the 'Compact Theory of Federalism'. The theory refers to the idea that a federal state is formed through an agreement (compact) between the units and the central government. The theory argues that since the units (provinces) created the federal government via a compact, therefore, the units should have final authority in determining when the federal government oversteps constitutional limits (Benner, 2014).

## Significance of the Study

This study is significant since it would provide information about the progress made by the provincial assembly towards the implementation of the Eighteenth Amendment Act. It was perceived by many scholars like (Burki, 2010 ), (Ahmad R., The Endemic Crisis of Federalism in Pakistan, 2010 ) in their works on the 18th Amendment Act that the provinces will face certain implementation problems in the process of devolution. The experts in their theoretical work predicted that the goals and objectives of decentralization may not be achieved on the pretext of weak administrative setup in provinces, especially in KP. It was argued that the implementation of the 18th Amendment

Act reforms would be more difficult than their formulation. The research would uncover the capacity of the province to meet the challenge posed by the Eighteenth Amendment Act.

## **Overview of the 18th Amendment Act 2010**

The 2010 18th Amendment Act sought to address new issues and bring the Constitution back to its legislative form. It included electing judges, renaming the North-West Frontier Province (NWFP), and strengthening the power of certain constitutional offices. The revisions fall into five categories: restoring the parliamentary form of government; strengthening important institutions; choosing judges; overseeing the federation's ties with the provinces; and other items (Hussain & Kokab, 2011).

The 17th Amendment gave the President more power over important duties and increased his influence over Parliament and its executive branch. The 17th Amendment was nullified by the 18th Amendment, making the 2002 Legal Framework Orders illegal. The President's authority was severely limited. For example, he was no longer able to choose a prime minister or delay the Assembly's next meeting after the elections. The change also limited the President's ability to declare a province-wide state of emergency and mandated that it be promptly submitted to Parliament. The Senate is essential to defending the rights of the provinces (Hussain & Kokab, 2011).

## **Law's Enactment and Implementation**

The Khyber Pakhtunkhwa Assembly has made significant progress in establishing provincial legislation, such as the KESP Act, of 2012, and the Local Government Act, of 2013. The KESP Act mandates free and compulsory education, addressing challenges such as low student enrollment and a shortage of qualified educators. The Local Government Act grants local governments the authority to administer essential services at the community level, fostering a sense of ownership and responsiveness among individuals (Ahmad, 2010).

The Khyber Pakhtunkhwa Assembly has successfully established regulations for matters previously under federal government jurisdiction, such as the KESP Act and the LG Act of 2013. The

KESP Act mandates free attendance at no cost, improving the standard and availability of education in a province with previous challenges. The Local Government Act grants local governments the authority to manage essential services, fostering a sense of ownership and accountability within the community.

## **Local Government in Khyber Pakhtunkhwa**

The Khyber Pakhtunkhwa government has taken on the responsibility of granting local government authority to the province and enacting legislation to regulate and manage local government entities in the province. The Local Government Act of 2013 was enacted, which outlines the organizational framework, responsibilities, financial management, property and asset administration, taxation, and oversight personnel of the local government. The primary characteristics of this system include its support for decentralized administration, promotion of local governance through elected representatives who advocate for various social groups, and implementation of stringent regulations for taxation, auditing, and financial distribution to ensure transparency and accountability (Local Government Act, 2013).

The 18th Amendment has significantly enhanced local governance in Pakistan by granting provinces both financial and administrative authority, empowering the people. As a result, new layers of local government have emerged, such as elected officials at the districts and tehsil levels. These entities currently receive a share of the funds generated by state taxes, resulting in an expansion of local government budgets. However, other provinces have achieved varying degrees of success, underscoring the need to continue enhancing the capabilities of these recently empowered local administrations.

The Act focuses on creating a strong local government system that brings together the many roles and authorities of councils (District, Tehsil, Town, Village, and Neighbourhood Councils) to improve local governance and the delivery of services. It provides comprehensive details on the financial management system, such as how municipal funds are established, how budgets are created and approved, and how taxes are paid. It also clearly defines the responsibilities and obligations of elected officials, requiring them to

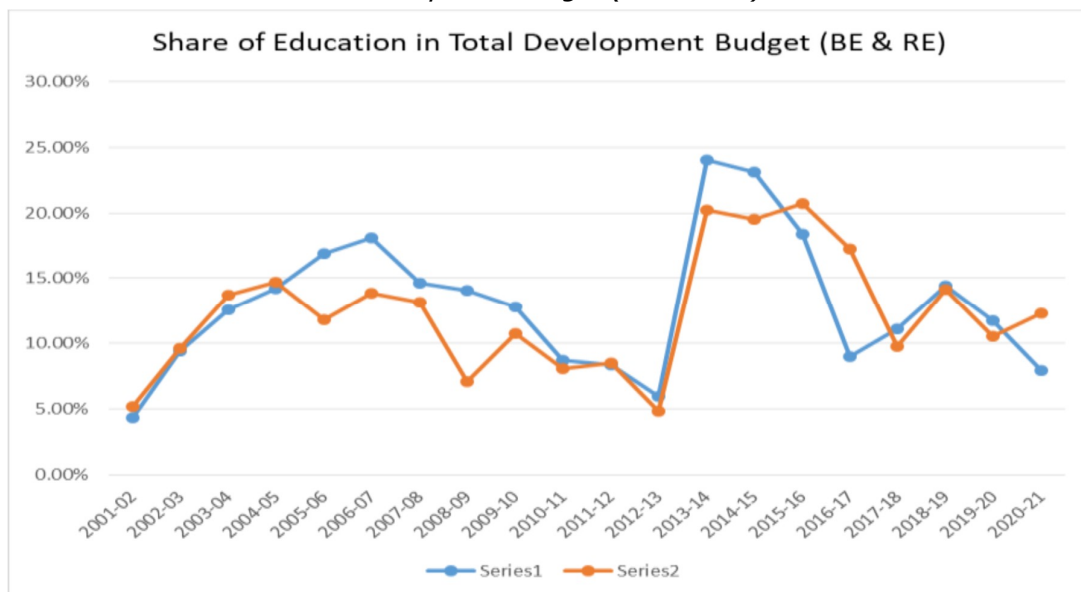
adhere to a set of moral standards meant to deter corruption and guarantee effective service delivery (Khan, 2023). The Khyber Pakhtunkhwa Delimitation of Local Government Act, 2015 facilitates the organizing of local government elections in a manner that suitably reflects the administrative, demographic, and geographic aspects of the province by offering a comprehensive framework for the delimitation of local councils in the province. However, the adoption of the 18th Amendment has been hindered by varying implementation among provinces, and further progress is needed in terms of openness, accountability, and citizen participation (Muhammad Nawaz Khan, 2023).

The implementation of the 18th Amendment in Khyber Pakhtunkhwa was hampered by three major issues. Firstly, policymakers and elected representatives in the province have a limited understanding of the socio-economic advantages of

legislative development, leading to a lack of acceleration in its implementation. Secondly, public officials lack sufficient knowledge about the consequences of the amendment and how it should affect their specific responsibilities and obligations. Thirdly, the general populace, even individuals from civil society, possess a restricted comprehension of the potential consequences of implementing the amendment in their day-to-day lives and fail to grasp its significance. Key Informant Interviews show that the implementation of the 18th Amendment in Khyber Pakhtunkhwa has not resulted in significant achievements. The only goal achieved was the implementation of the Right to Education Act, which required the enrolment of all school-age children in educational institutions. Article 25A, which requires compulsory and cost-free education for children aged 5 to 16, has become a separate effort that does not succeed in its goal of increasing student enrolment in the province (Dr. Mohammad Sohail, 2022).

**Figure 1**

*Share of Education in Baluchistan's Development Budget (2001-2020)*



The response of the population to the introduction of the 18th Amendment in the education sector of the province was unclear and contradictory. Most participants connected the implementation of the 18th amendment to enhancements in infrastructure and the quality of public education, emphasizing the importance of having sufficient teachers,

essential facilities, and more educated and well-trained instructors. However, only a small number of participants conducted a study of the amendment's ability to improve educational policy, modernize curricula, and increase syllabus preparation (Parvez, 2021).

The lack of understanding of the 18th amendment among citizen groups and civil society members can be attributed to successive and current governments in Khyber Pakhtunkhwa's failure to effectively educate the public on the matter. This result was primarily caused by a lack of political will, an inability to foresee the wider effects of not implementing a revised constitutional framework, and the centralization of power among political representatives instead of decentralizing it to the appropriate departments. The transfer of institutions and organizations to the provincial government is another critical issue, with the provincial government unable to precisely specify the nature and categories of records needed from the federal government to ensure the efficient operation of devolved institutions. Additionally, the establishment of a regulatory supervision system to guarantee the smooth operation of transferred organizations and institutions remains a challenge (Lubna Shahnaz, 2011).

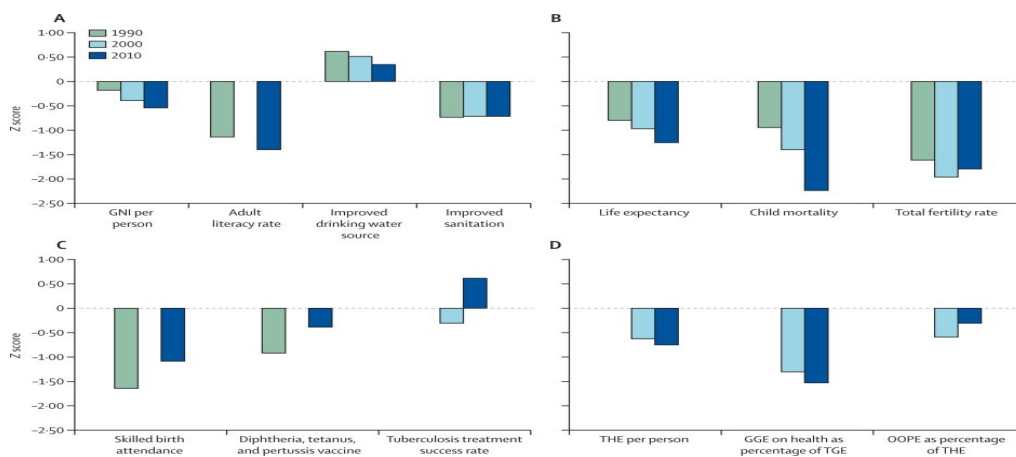
Pakistan's constitution does not recognize the 'right to health', despite the 18th Amendment implementing six health-related changes. The scope of national health subjects has been narrowed down to four broad domains: health information, health regulation, international duties, and national health policy. The province's constitutional, legislative, administrative, political, and financial autonomy in the health sector has led to expectations of improved operations and service delivery. However, public hospitals in Khyber

Pakhtunkhwa still lack essential facilities such as medical equipment, doctors, nurses, medicines, and diagnostic gadgets. The lack of a transparent pricing and service structure puts physicians' careers and futures at risk, leading to dissatisfaction among the general population and causing many to leave public employment and seek private clinics. Additionally, there is concern about their safety, as many doctors have been abducted for ransom without sufficient security measures from the provincial administration (Nishtar, 2013).

The lack of understanding of the needs of the general population and staff in the health department contributes to the state's inadequacies. A 'health policy' is a formal statement made by the highest level of government, usually, the Cabinet, outlining objectives, strategies, mission, vision, goals, and operational plans for health and health systems. The issue of funding and tension between provinces' desire for independence and flexibility and the central government's aim for consistent national policy are common themes in federal-provincial relations. The Khyber Pakhtunkhwa administration has been working to improve health services and governance in the province for the past five years. The incumbent political party, which held power from 2013 to 2018, was re-elected with an increased majority, allowing them to implement additional policy adjustments. The health minister is leading efforts to create policies, plans, and visions for the health sector in Khyber Pakhtunkhwa (Kazi, 2013).

**Figure 2**

*Pakistan's health system: performance and prospects after the 18th Constitutional Amendment, 2013*

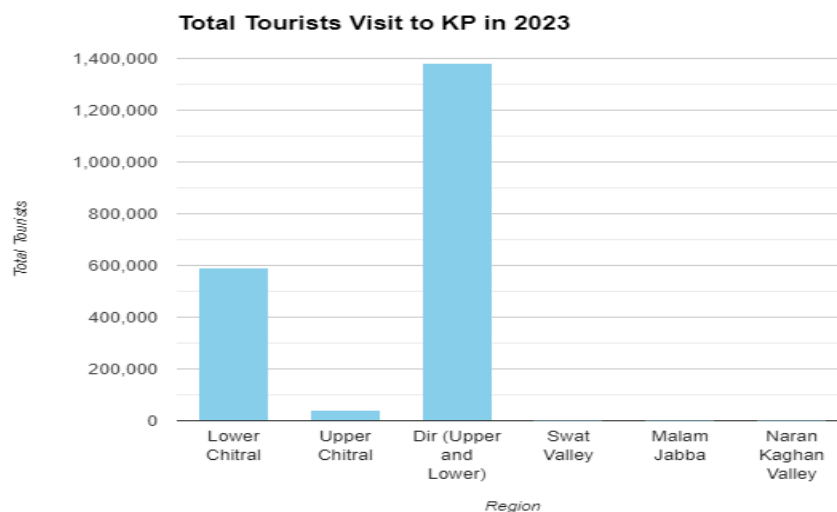


The government's Department of Health has implemented initiatives to achieve changes, including reviewing the "Rules of Business" and "Organizational Structure" of the Health Department, forming a Board of Governors, and providing autonomy to Medical Teaching Institutes (MTIs). Since 2015, the organization has successfully filled 90% of the posts included in the budget. The Integrated Health Project supported the creation of health plans and budget allocations for all 25 districts, guaranteeing the provision of the Minimum Health Services Delivery Package (MHSDP). The Chief Minister's Pro-Poor initiatives included providing annual gifts of Rs. 1 billion worth of complimentary drugs to the Accidents & Emergencies Departments of MTIs and DHQs, launching a program for free cancer treatment, and providing financial assistance to pregnant women. The Khyber Pakhtunkhwa Social Health Protection Initiative (Sehat Sahulat Program) is the main project of the KP Government, serving the majority of the poor population and aiming to achieve universal health care. The government increased its health sector allocation from PKR 30.3 billion in 2012-13 to PKR 66.49 billion in 2017-2018 (Afzal, [2013](#)).

The Sarhad Tourism Corporation (TCKP) was established in 1991 to enhance Khyber Pakhtunkhwa's tourism appeal by implementing economic measures. In 2016, the KP government implemented its first "Provincial Tourism Policy," allowing TCKP to take over administrative control, asset management, personnel management, and government approval for the operations of the Pakistan Tourism Development Corporation. The policy aimed to promote the commercialization of government-operated tourism facilities, including rest houses, public-private partnerships, and new tourist locations. TCKP also included roadside tourist facilities and allocated an extra sum of Rs 2.3 billion for the "Tourism Area Integrated Development Unit" project in Shangla, Naran, Chitral, and Kalam. TCKP has participated in various events, including Dubai investment road shows and the Jewels of KP international tourism exhibition. The tourism annual development project (ADP) of Khyber Pakhtunkhwa increased significantly, reaching an unprecedented Rs811.772 million in 2017-18. The agency expressed satisfaction with its achievement of producing Rs50 billion in revenue from the sector (Hassan, [2023](#)).

**Figure 3**

*Department of Tourism in Khyber-Pakhtunkhwa, 2023.*



Significant modifications have been made to the legislative framework that oversees Khyber

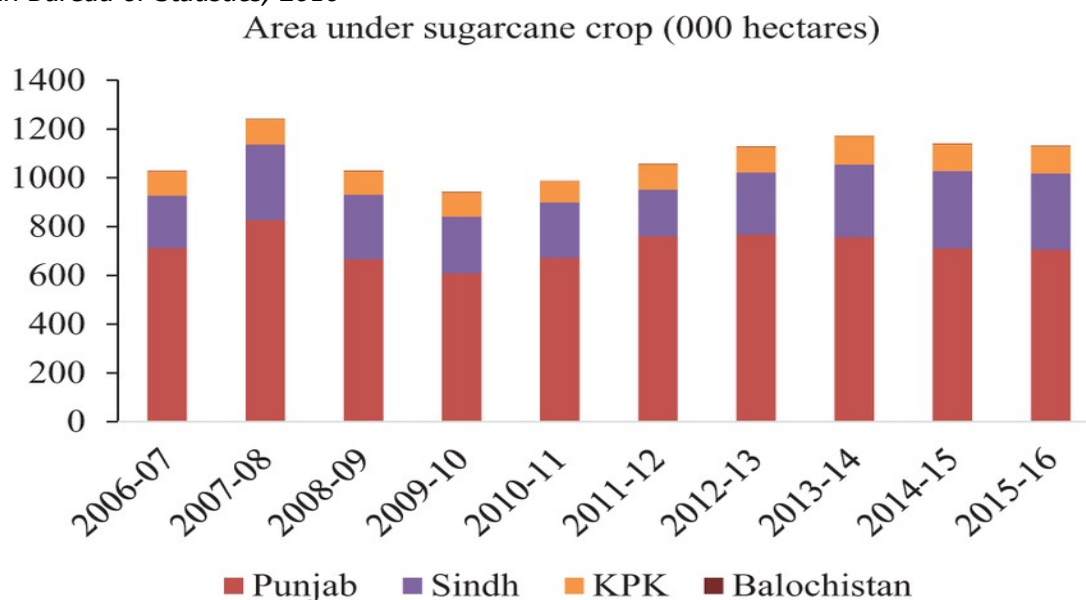
Pakhtunkhwa's Ministry of Food and Agriculture as a result of the 18th Amendment to the Pakistani

constitution. These adjustments are in line with the province's increasing independence and control over its agricultural sector. The Khyber Pakhtunkhwa Agriculture Extension, Research and Services Act was one of the many laws the provincial legislature introduced to promote and regulate the agricultural industry. Its goals were to enhance farmer training, education, agricultural

research, and extension services. The Khyber Pakhtunkhwa Agriculture Produce Markets Act was designed to oversee agricultural markets, encourage fair trading methods, and foster rural communities' economic development while creating an atmosphere that is favorable to agricultural trade. (Resnick & Rana, 2017).

**Figure 5**

*Pakistan Bureau of Statistics, 2016*



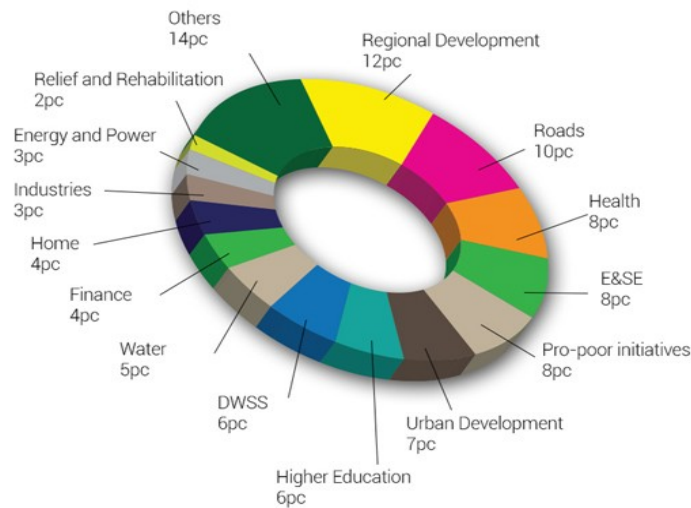
The Khyber Pakhtunkhwa Agriculture Policy delineates key goals and critical areas for agricultural progress, emphasizing the growth of sustainable agriculture, enhancing water management practices, and encouraging agribusiness sector entrepreneurship. The Khyber Pakhtunkhwa Farm Services Centres Act of 2014 shows the government's commitment to enhancing the agricultural sector through collaboration between the public and private sectors by supporting agricultural advancement and providing farmers with help. The Act aims to create and standardize Farm Services Centers throughout the province, providing resources, expertise, and support to the farming community. The Act guarantees inclusiveness in membership, offering participation to persons aged 18 and possessing agricultural property or involved in related companies. The Khyber Pakhtunkhwa Farm

Services Centre Board is responsible for managing the operational elements of these centers (Spielman, 2016).

The provinces of Pakistan, including Khyber Pakhtunkhwa, were given considerable authority by the 18th Amendment to the country's constitution. As a result, the province has passed several laws addressing environmental issues and advancing sustainable development. With the goal of enhancing the delivery of public services and empowering citizens, the province has passed a variety of legislation pertaining to topics including local government, healthcare, and education. However obstacles still exist, and to address the requirements of the province and guarantee the successful execution of the right to free and compulsory education, a comprehensive education strategy is required (Latif, 2017).

**Figure 6**

## ADP 2014-15



The Ministry of Environment is responsible for formulating and implementing plans to protect and preserve Khyber Pakhtunkhwa's natural resources. The legislation includes measures to control industrial emissions, reduce pollution in metropolitan areas, and save fragile ecosystems. The assembly has approved procedures to promote environmental education and awareness, and the provincial parliament has committed to aligning environmental policy with broader development objectives. The province government has taken steps to strengthen the enforcement procedures and institutional capability of the Ministry of Environment, including the recruitment of skilled personnel, the establishment of monitoring systems, and the allocation of financial resources to support implementation efforts (Ali, 2021).

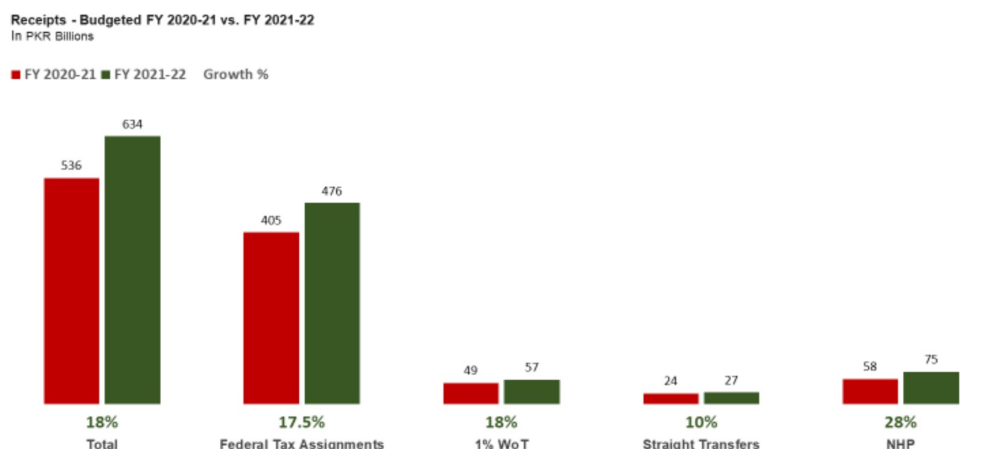
The 18th Amendment to the Pakistani constitution led to a significant change in family planning activities, with the Ministry of Population

Welfare being dissolved and its responsibilities transferred to the provinces. The Federal Government established the Task Force on Population and Family Planning to address population growth and improve contraceptive availability, reduce fertility rates, and slow down population growth. The Task Force, headed by the President and comprising chief ministers of each province, emphasizes coordination and cooperation among provinces. To ensure success, Khyber Pakhtunkhwa should establish infrastructure to enforce regulations, including strengthening institutions like the court, civil service, and law enforcement. Thorough supervision methods, such as strengthening parliamentary oversight committees and empowering citizen oversight groups, are also crucial. Skilled individuals, such as Lady Health Workers (LHWs), are essential for executing regulatory requirements (Kazi, Expanding Quality Health, population, and Nutrition Services, 2013).

**Figure 7**

Source, Government of KPK, 2022

**Federal transfers; estimates vs. last year's budgeted figures**



To achieve Pakistan's Family Planning objectives, community health professionals, provincial authorities, and the federal government must collaborate to leverage indigenous talent, use available resources, and implement efficient governance. This all-encompassing and long-term family planning approach may accommodate the various needs of the populace (Latif, 2017).

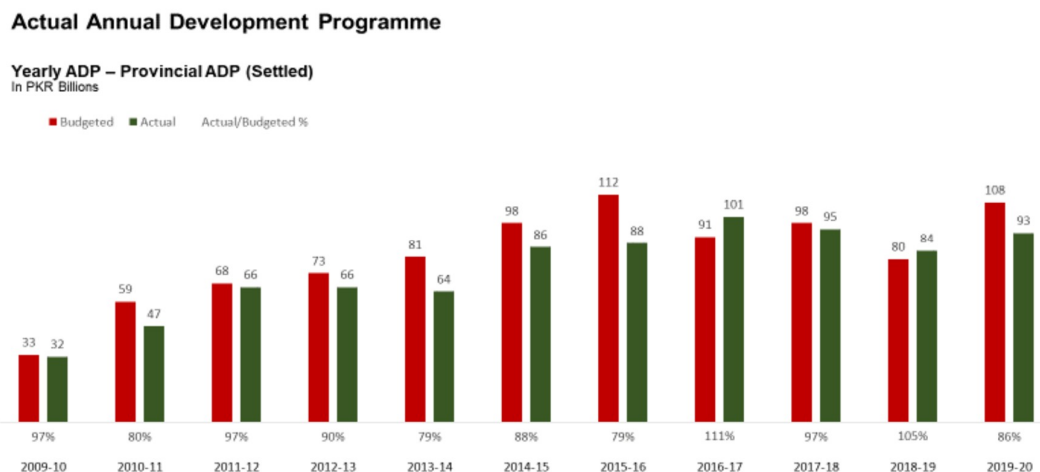
A notable piece of Pakistani legislation, the Khyber Pakhtunkhwa Finance Act of 2011 modifies and maintains the province's levies and fees. With the governor's approval, it aims to update antiquated laws to better meet the needs and difficulties of the current economic climate. The Act modifies the Court Costs Act of 1870, which set costs for revenue and civil court documents. The Act also modifies the Provincial Motor Vehicles Ordinance of 1965 by levying penalties on cars that are registered beyond the deadline. It also establishes the Sugarcane and Sugar Beet (Development) Cess, which is based on the processed sugarcane and sugar beet produced by sugar mills. In an effort to raise money via service taxes, the Khyber Pakhtunkhwa Sales Tax

Ordinance, of 2000 expands the application of the Provincial Sales Tax on Services (Rauf, 2022).

The 2017 Khyber Pakhtunkhwa Finance Act represents an additional effort to modify the financial structure of the state. It will become operative on July 1, 2017, and it will be enforced throughout the province. The Act updates tax schedules to more accurately reflect the current economic conditions and amends the West Pakistan Urban Immovable Property Tax Act, of 1958. One of the Act's innovative ride-hailing service provisions ensures that new business models contribute fairly to the province's revenue. The Khyber Pakhtunkhwa Finance Act, 2019 is a legislative initiative designed to promote economic development and fiscal reform in the Pakistani province of Khyber Pakhtunkhwa. It amends, maintains, changes, and removes a variety of taxes, levies, and requirements from all throughout the province. The law, which went into effect on July 1, 2019, introduced both new fiscal measures and some significant changes to the financial regulations that were previously in existence. (Ahmad, 2023).

**Figure 8**

Source, Government of KPK, 2020



Schedule II of the West Pakistan Urban Immovable Property Tax Act, 1958 is replaced by the Act in order to modernize the tax framework for urban immovable assets. Changing some provisions of previous legislation changes tax tables and rates for a number of businesses, including the taxation of tobacco and urban immovable property. The Act also lays forth rules for online shopping, service provider registration, and sales tax withholding by service recipients. A number of the province's taxes and levies are intended to be modernized, maintained, and eliminated by the Khyber Pakhtunkhwa Finance Act, 2020. It incorporates modifications to old laws to align with current economic conditions and administrative needs, such as modifying the Stamp Act of 1899 to provide exceptions for some obligations (Rauf, Views Of Educationists Regarding Khyber Pakhtunkhwa Higher Education—A Practice Of Maladministration Of 18th Amendment, 2022).

The Act also introduces amendments to the Motor Vehicles Ordinance of 1965 and the West Pakistan Motor Vehicles Taxation Act of 1958, aiming to streamline procedures and eliminate unnecessary impediments for car owners.

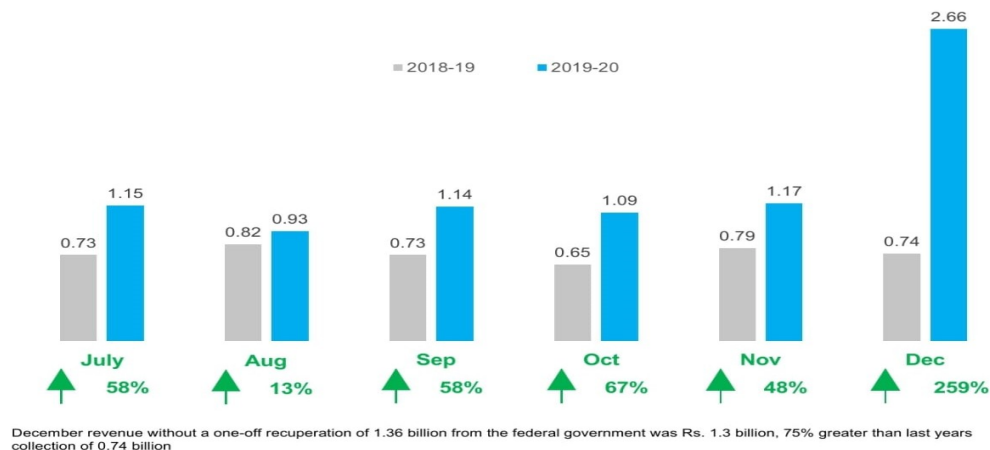
The Khyber Pakhtunkhwa Assembly enacted several laws following the 18th Amendment, aiming

to transfer administrative and financial control over various issues. These included social welfare, education, health, municipal governance, and agriculture. The Khyber Pakhtunkhwa Local Government Act of 2013 established a three-tier local government system, empowering local governing bodies to oversee important services. The Khyber Pakhtunkhwa Public Service Commission Act of 2011 strengthened the provincial government's control and decision-making power regarding human resources. However, there are concerns about the discrepancy between legislation and its impact on people, particularly in finance, healthcare, and education. The amendment aims to transform Pakistan's trajectory by promoting enhanced provincial governance and a more receptive central government. However, challenges remain, such as financial independence and the need for a change in the National Finance Commission Award to consider population size and development needs. Provincial administrations must improve their ability to manage resources, establish strong systems for implementation and oversight, and foster openness, and reduce bureaucratic procedures. Collaboration between provincial and federal authorities is crucial for effective law implementation (Begum, 2018).

**Figure 10**

*KPRA: A remarkable first half of the financial year, 2020*

**Each of the six months has represented record collection for the month in question, with a record ever collection in December**  
 KPRA Revenue Comparison, Rs. billions

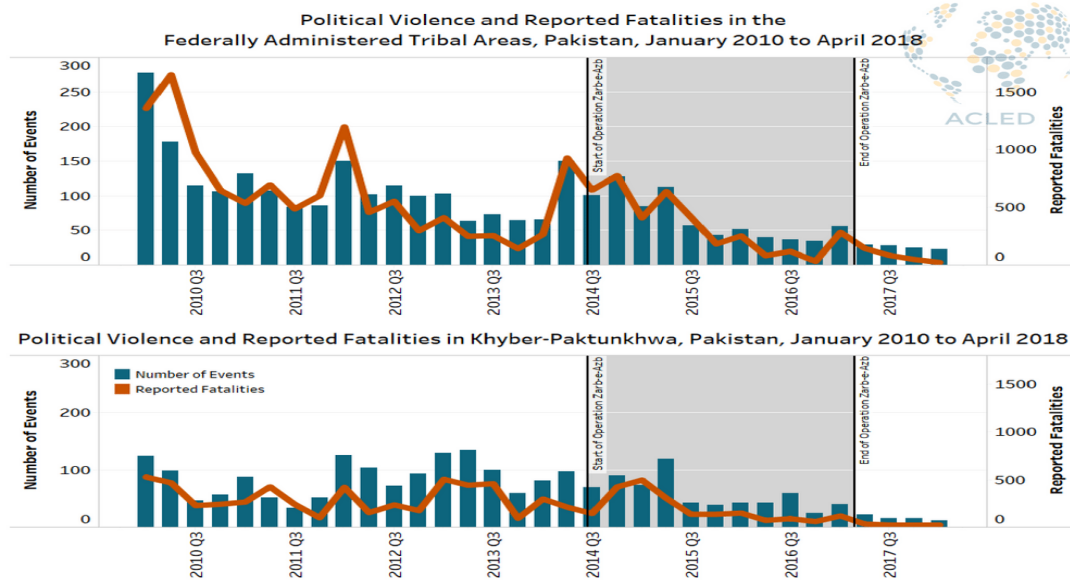


The Khyber Pakhtunkhwa Health Initiative, initiated in 2015, aimed to improve healthcare services across the province, demonstrating provincial ownership and resource allocation. However, the lack of such instances highlights the need for systemic changes to ensure consistent progress. The 18th Amendment is crucial for promoting democratic progress in Pakistan, covering both federal and provincial levels. Effective implementation ensures seamless operation, fostering a sense of ownership and accountability, leading to improved service delivery and better outcomes for the entire population. The government has established the Implementation Commission for the 18th Amendment, which has made significant progress in assigning relevant ministries and tasks to provincial governments. The shared responsibility of federal and provincial governments is to provide necessary rules and administrative structures for improving Pakistan's socioeconomic status and welfare. The majority sees the amendment as a step in the right direction toward parliamentary sovereignty, federalism, and democracy, notwithstanding some reservations.

The effective implementation of the 18th Amendment has the potential to boost local government performance, spur socioeconomic development, and boost public engagement in the democratic transition (Begum, 2018).

The enactment of legislation in Khyber Pakhtunkhwa (KP) that is in line with the 18th Amendment presents a number of obstacles. The Assembly's lack of competent attorneys and legislators could delay the passage of significant legislation or result in differences between it and the federal legislative framework. Producing legislation under a federal system is difficult and necessitates a deep understanding of the constitutional separation of powers due to a shortage of human resources. The political turmoil that persists in KP makes the legislative process more challenging since it frequently upsets parliamentary agendas and creates uncertainty. This could result in hastily drafted legislation that is either ineffectual or insufficient to address the problems caused by the devolution of authority (Latif, 2017).

**Figure 11**  
Barriers in Legislation in KPK, 2021.

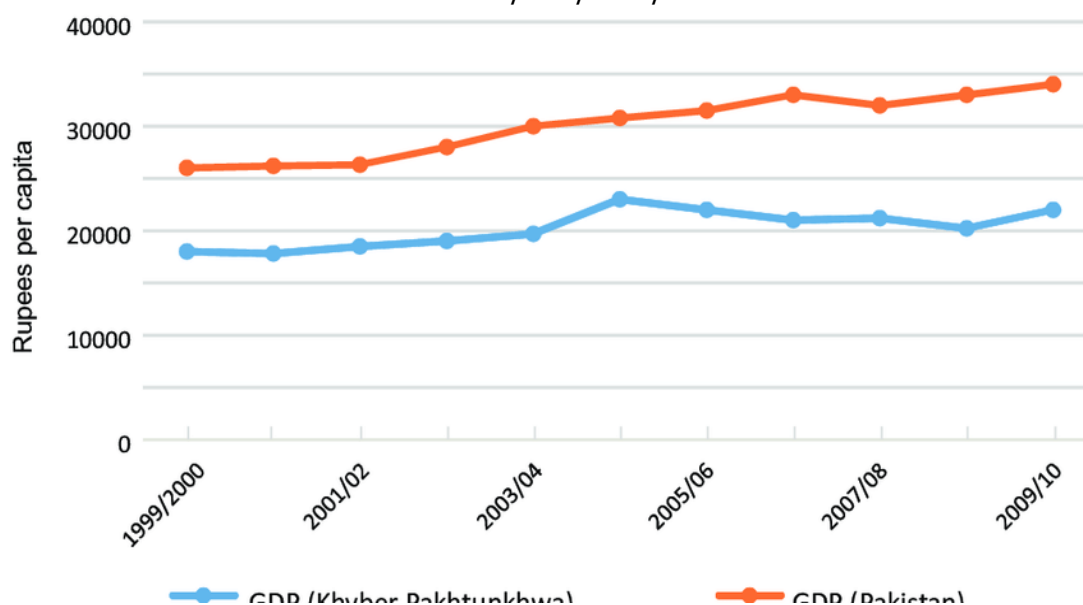


The KP Assembly and the federal parliament must cooperate across the boundaries of government to maintain uniformity and avoid legal issues. However political rivalry and bureaucratic barriers might make it hard for the two levels of government to cooperate and communicate. In summary, the KP Assembly faces numerous challenges in enacting and implementing new laws, including as scarce funding, erratic political landscapes, and resource constraints. A lack of public participation in the legislative process could undermine the legitimacy and effectiveness of new laws since the KP Assembly could not have included the public and civil society organizations enough in discussions on proposed legislation. This lack of involvement can lead to a variety of problems, such as chances for elite capture and corruption, citizens not knowing their rights and responsibilities under new laws, and laws that are not well-crafted to meet the particular needs and difficulties that different communities in the province face (Ahmed, [2011](#)).

The 18th Amendment to Pakistan has significantly altered the legal landscape in the province of Khyber Pakhtunkhwa. The federal government was in charge of several legal areas, such as health, education, and agriculture, but a centralized legal system limited its authority. The 18th Amendment added these topics to the Concurrent Legislative List, allowing both the national and local governments to enact legislation. This modification has led to the creation of provincial laws that are specially tailored to meet the needs of the province. The Khyber Pakhtunkhwa Elementary and Secondary Education Sector Plan (KESP) Act, 2012, and the Khyber Pakhtunkhwa Local Government Act of 2013 have greatly enhanced the accessibility and quality of education. Furthermore, the Act empowers local governments to address issues related to water management, sanitation, and basic healthcare in order to foster a culture of accountability and adaptability (Khan, [2023](#)).

**Figure 12**

*Khyber Pakhtunkhwa Province: trends in GDP Rupees per capita 1999-2010. Source: IGC 2015*



The Khyber Pakhtunkhwa Elementary and Secondary Education Act of 2017 and the Khyber Pakhtunkhwa Health Care Commission Act of 2014 are key legislations that regulate the provincial level of education, healthcare, and local government. The 18th Amendment to the Pakistani constitution has led to significant changes, aiming to strengthen the relationship between the people and the state, as well as the three main institutional pillars of the state: the state itself, provinces, and the federal government.

The eighteenth Constitutional Amendment in Khyber Pakhtunkhwa (KP) has significantly changed legal and governance reforms, granting provinces more autonomy in key areas like education, health, and social welfare. This has led to improved governance, efficiency, and transparency. The province has also made significant advancements in digital governance and transparency, setting international benchmarks. However, the lack of an excise tax on crude oil has resulted in annual losses of at least Rs 12 billion. The Khyber Pakhtunkhwa Government suggests a decrease in the Petroleum Levy and a Goods and Services Tax (GST) to balance the excise levy. The provinces now have the power to oversee petroleum operations, but regulations remain unsettled (Khan N. S., [2019](#)). The Petroleum Policy

of 2012 and the Petroleum Rules of 2013 partially embody the core ideas of the Amendment, but the Federal Government has not provided payment or meetings. The Khyber Pakhtunkhwa Government believes that the Constitution's supremacy results in automatic changes to all statutes, rules, and regulations, and has modified multiple Acts to make 172.3 functional (Khan M. A., [2012](#)).

### Laws

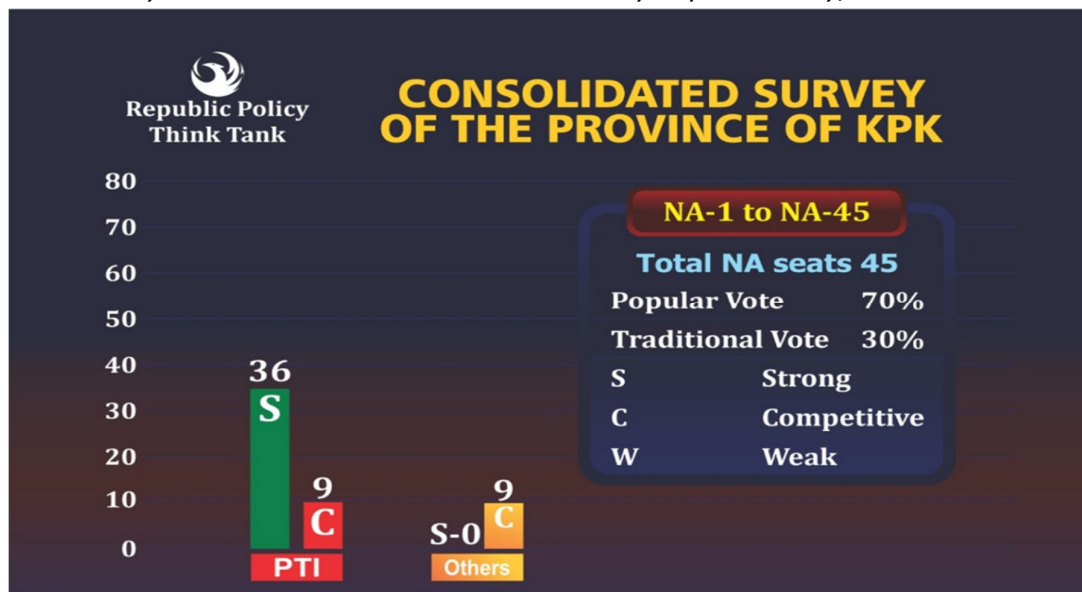
- a) The Regulation of Oil and Mines Development Act of 1948.
- b) Presidential Order Number 8, Mineral Order of 1961.
- c) The Petroleum Ordinance of 1961.
- d) The OGRA Ordinance of 2002.

### Policies

- a) The Petroleum Policy of 2012 (also referred to as PP 1991, 1993, 1994, 1997, 2001, 2007, 2009)
- b) The TG Policy of 2011
- c) The Low BTU Gas Pricing Policy of 2012
- d) The Pricing Criteria & Guidelines for Marginal/Stranded Gas Fields of 2013
- e) The guidelines for the production and distribution of LPG in 2013.

**Figure 13**

*Consolidated Survey of the Provinces and ICT of Pakistan by Republic Policy, 2024*



### Conclusion

The devolution led to significant legislative and administrative modifications in Khyber Pakhtunkhwa (KP), empowering the province administration to enact policies and laws that addressed local needs. Education and healthcare, which were previously centralized, experienced a significant degree of decentralization. This decentralization equipped KP to effectively address difficulties that are peculiar to different regions. The newly gained independence has a direct impact on the implementation of the Khyber Pakhtunkhwa Elementary and Secondary Education Sector Plan Act 2012 and the Khyber Pakhtunkhwa Health Care Commission Act 2014.

The province's measures aimed to improve the quality of education and healthcare services, showing their commitment to using the amendment to foster regional development. Furthermore, the amendment promoted an environment

characterized by accountability and transparency, as demonstrated by the execution of the Khyber Pakhtunkhwa Right to Information Act of 2013. By protecting the public's right to obtain papers, this legal structure discouraged corruption and facilitated openness.

Nonetheless, there were several challenges in implementing the Eighteenth Amendment in Khyber Pakhtunkhwa. Occasionally, it was challenging to carry out given responsibility effectively due to inadequate capability, strict financial constraints, and unstable political conditions. Despite these problems, the modification significantly and revolutionarily altered KP's governing structure. It allowed the governance structure to shift to a more flexible and localized one, granting the province government the authority to enact laws and implement policies that better reflect the needs and desires of its citizens.

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