

LEGISLATIVE BACKGROUND: EDUCATION GOVERNANCE IN PAKISTAN

Higher Education Department is relatively a new department separated from the Education Department of Government of the Punjab in 2008

In recent years a renewed surge has been witnessed towards education reform and development at national as well as provincial level.

Through the numerous phases of federalism in Pakistan education mostly remained in the provincial domain. The Constitution of Pakistan 1973 for the first time placed education related entries on the concurrent legislative list thus allowing a substantial federal role in Education; particularly in terms of policy, planning and curriculum development.

The Interim Constitution 1947-1956(Government Of India Act 1935)

Education was placed in the exclusive legislative and executive domain of the provinces vide *Entry 17* of the provincial legislative list. Any matter related to Education as policy, planning or curriculum was neither on the Federal Legislative List nor the Concurrent Legislative List.

The Constitution Of 1956

The first Constitution of Pakistan was adopted in 1956. Education in the 1956 constitution was stipulated as the obligation of state. The directive principles of state policy in the Constitution of 1956 required the state to *remove illiteracy, provide free and compulsory primary education with in minimum possible time*. Article 106 of the constitution dealt with the distribution of powers between federal and provincial governments. Education (including university education, technical education and professional training) was assigned to exclusive legislative domain of the provinces.

The Constitution of Second Republic 1962

Education featured prominently in the 1962 constitution as it was acknowledged as a fundamental right. However in terms of distribution of powers, the 1962 Constitution moved away from the practice of provision of multiple legislative lists and provided only a single list of subjects on which the central legislature had the exclusive power to legislate. The federal legislative list as provided in the third schedule of the constitution had 49 items and none dealt with Education thus delegating it to the provincial realm.

The Constitution of 1973

Education saw a major jurisdiction shift in 1973, when it was formally incorporated in the concurrent and federal legislative lists in the Constitution of Pakistan 1973. In the federal legislative list Part-I three entries dealt with education (Entries: 15, 16 & 1714). Whereas the concurrent list included important entries like

education policy, planning, curriculum, syllabus, standards of education and Islamic Education¹⁵ thus empowering the federal government to play a dominant role in the affairs of education.

At national level following ten policy documents have been framed with varying degree of consultation and involvement of the federating units:

1. Report of the Pakistan National Educational Conference 1947
2. Report of the Second Pakistan Educational Conference 1951
3. Report of the National Commission on Education 1959
4. Proposals for New Education Policy 1969
5. New Education Policy 1970
6. Education Policy 1972-78
7. National Education Policy 1979
8. National Education Policy 1992
9. National Education Policy 1998-2010
10. National Education Policy 2009

The introduction of Eighteenth Constitutional Amendment has brought a number of significant changes in the Constitution of Pakistan 1973.

The amendment besides introducing changes in multiple Articles, it has increased the role of federating units in various subjects of Education is one of the key subject which is being devolved to the provincial mandate.

It has delegated the key subjects of education policy, curriculum, planning and standards to the exclusive legislative and executive jurisdiction of the provinces. The incorporation of Article 25-A is another fundamental change introduced by the Eighteenth Constitutional Amendment. Education in Pakistan has always been considered as a fundamental right in all the policy documents as well as the late constitutions of 1956 and 1962. Even the constitution of Pakistan 1973 contained a number of provisions which acknowledged the right to education; however those provisions were not enforceable. The introduction of Article 25-A however makes it a justiciable right, obligating the state to provide free and compulsory education to the children of the age five to sixteen years.

Post Eighteenth Amendment Framework:

Eighteenth Constitutional Amendment has revised the existing framework of distribution of powers between federal government and the federating units. Education has been shifted to the legislative and executive jurisdiction of the provinces. The new framework has reconfigured the federal and provincial relationship in terms of education governance. The significant changes altering the governance framework include the following:

INTRODUCTION OF ARTICLE 25-A:

The amendment has inserted a new Article in the chapter dealing with fundamental rights in the Constitution of 1973. Article 25-A22 obligates the state to provide free and compulsory quality education to children of the age group five to sixteen years. However the manner and method of the provision is made contingent upon law **“The State shall provide free and compulsory education to all children of the age of five to sixteen years in such a manner as may be determined by law”** Article 25-A, Chapter-I, Constitution of Pakistan

1973

Education - Pre & Post 18th Amendment

Subject	Pre-18 th Amendment					Post 18 th Amendment
	GOI Act 1935 (PPCO 1947)	1956 Constitution	1962 Constitution	1972 Interim Constitution	1973 Constitution	
Right to Education	Recognised but not Justiciable	Recognised but not Justiciable	Recognised but not Justiciable	Recognised but not Justiciable	Recognised but not Justiciable	Article 25-A, Education a justiciable right
Education(Policy and Planning)	Provincial Legislative List	Provincial Legislative List	Provincial Legislative List	Provincial Legislative List	Concurrent Legislative List	Provincial Legislative List
Curriculum	Provincial Legislative List	Provincial Legislative List	Provincial Legislative List	Provincial Legislative List	Concurrent Legislative List	Provincial Legislative List
Higher Education	Provincial Legislative List(Except two universities)	Provincial Legislative List	Provincial Legislative List	Provincial Legislative List	Concurrent Legislative List	Federal Legislative List Part-II (Standards)

Provincial Role in Education

Introduction of Eighteenth Amendment has significantly redefined the role of provinces. The magnitude of devolved functions and the existing administrative capacity of the provinces is a serious challenge. In the context of education, there has been a phenomenal delegation of powers, and the Provinces will have to perform a wider variety of functions within the available fiscal space, capacity and without receiving additional resources in the near future.

Old Status	New Status
Curriculum, syllabus: –Federal & Provincial Joint Function	Transferred to Provinces
Planning, Policy: Federal & Provincial Joint Function	Transferred to Provinces
Centres of Excellence, Area Study Centres, Pakistan Study Centres and Sheikh Zaid Islamic Centres- Federal	Transferred to Provinces
Standards of education. Federal & Provincial Joint Function	Transferred to Provinces Beyond Grade 12 transferred to Part II of F.L.L. Entry 12. (CCI)
Islamic Education. Federal & Provincial Joint Function	Transferred to Provinces

The key roles devolved at the provincial tier as result of the eighteenth amendment include the following:

- a. Policy
- b. Planning
- c. Curriculum, Syllabus
- d. Standards of Education
- e. Centers of Excellence
- f. Islamic Education
- g. Area Study Centers
- h. Pakistan Study Centers
- i. Higher Education