**The Charter of Democracy**

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Merely the words ‘Charter of Democracy’, would allude to an environment of constitutional spirit and sense of (albeit false) security. One would assume that there would be little chance of malice or extra-constitutionalism in their practical applicability. These three words signify the coming together of established political institutions, towards one common goal, which (in our case) was (or should have been), establishing the supremacy of the Constitution and the foundation stones of democracy in Pakistan.

In 2006, upon the end of the military dictatorship of the late General Pervez Musharraf, Mian Mohammad Nawaz Sharif and Mohtarma Benazir Bhutto – leaders of the two premier parties of Pakistan at the time, came together to sign a thirty-six-point Charter. The basic essence was to refrain from using extra-constitutional means for the purposes of gaining power (no pun intended under the prevailing environment). The Charter consisted of, most importantly, constitutional amendments, and laid a sound framework for other matters such as a code of conduct, civil-military relations, and the understanding that free and fair elections were the only way for democracy to prosper in Pakistan.

[Elton John’s Glastonbury triumph attracts 7.3 million TV viewers](https://www.nation.com.pk/27-Jun-2023/elton-john-s-glastonbury-triumph-attracts-7-3-million-tv-viewers)

In the spirit of being dispassionate and impartial, let us introspect and analyse how well this Charter has been implemented over the past seventeen years. There have been three different elected governments, after contesting ‘free and fair elections’, yet there are a number of salient features of the Charter which have been (quite subtly) ignored.

Let us put aside the code of conduct, the civil-military relations, the free and fair elections, and most other things in the Charter, and (for now) focus on the 18th Amendment. This historic amendment has perhaps left the biggest mark in our constitutional sphere for over a decade. The 18th amendment was a monumental step towards establishing a ‘more prosperous’ Pakistan, by bringing about significant changes in the power structure, aiming to address issues of federalism, provincial autonomy, and democratic governance.

Pakistan’s constitutional journey began with the adoption of the Government of India Act in 1935, which laid the foundation for a federal structure. However, subsequent constitutional developments, including the 1956, 1962, and 1973 constitutions, witnessed varying degrees of centralization and a struggle for power between the Federal and Provincial governments.

[Mitsotakis’s conservatives clinch landslide Greece election win](https://www.nation.com.pk/27-Jun-2023/mitsotakis-s-conservatives-clinch-landslide-greece-election-win)

During General Zia-ul-Haq’s military regime, the Constitution underwent substantial changes, concentrating power in the hands of the President and central authorities. This centralization was further reinforced during subsequent civilian governments, leading to concerns about the erosion of Provincial autonomy.

In the late 1990s and early 2000s, demands for constitutional reforms gained momentum in Pakistan. Civil society organizations, political parties, and relevant stakeholders advocated for a more inclusive, participatory, and democratic system. The need for greater Provincial autonomy, fiscal decentralization, and the trimming down of excessive executive powers became key areas of focus.

The 18th Amendment was heralded as a saviour and a ray of hope for all those demanding constitutional reforms. It repealed the Concurrent Legislative List and gave exclusive legislative authority to the provinces for various subjects. It also aimed to strengthen Provincial autonomy by establishing the National Finance Commission (NFC) to determine resource distribution between the Federal and Provincial governments. The judiciary was also empowered by ensuring judicial independence through the establishment of the Judicial Commission, in order to facilitate transparent judicial appointments. And perhaps, most importantly, it curtailed the powers of the President (especially the powers to dissolve Parliament and dismiss the Prime Minister) and empowered the Parliament, thus reinforcing democratic governance.

[Ukraine forces recapture new Russian-occupied settlement](https://www.nation.com.pk/27-Jun-2023/ukraine-forces-recapture-new-russian-occupied-settlement)

I applaud the lofty aspirations.

While an attempt had been made to enhance Provincial autonomy, there was never any clarity with regard to the extent of this autonomy, which has resulted in ambiguity and conflicts between the Federation and the Provinces. This stems from an absence of clear guidelines on matters such as inter-provincial coordination, resource redistribution, and decision-making authority – which has hindered any attempt at effective governance. There has been endemic criticism of the NFC and the formula used for resource allocation, with smaller provinces feeling that it discriminates against them. This has resulted in hampering development and creating an atmosphere of regional disparity.

The list can go on endlessly, there has been an ineffectiveness of Provincial Institutions in managing the authority transferred to them due to a lack of preparedness, insufficient resources, and inadequate capacity, resulting in challenges in governance. There has been an increase in political fragmentation and policy gridlock. The decentralization of power has led to a proliferation of political parties at the Provincial level and resultantly, a fragmented political landscape – which coupled with the absence of strong political consensus, has made it challenging to implement coherent policies. There is a clear absence of effective coordination between the Federal and Provincial governments, which has severely hindered the implementation of national policies. Not to mention, one of the cornerstones of the 18th Amendment was the devolution of power at the local level, something which has not seen the light of day since its inception. Some even argue that the 18th Amendment has led to serious judicial overreach and lack of accountability. The expanded powers of the judiciary, coupled with weak checks and balances, have raised concerns about the balance of power between the judiciary and other state institutions – compromising the principle of separation of powers.

[Obama: Row in India over former US President’s remarks on Muslim rights](https://www.nation.com.pk/27-Jun-2023/obama-row-in-india-over-former-us-president-s-remarks-on-muslim-rights)

Since the dissolution of the Punjab (and KP) Assembly, all anyone has really been able to talk about (from a legal and political point of view), is the 90-Day mandate outlined by the Constitution. But for some reason, a right granted under the 18th Amendment (to hold independent elections for Provincial Assemblies within 90 days of their dissolution), a right which was fought for, a right which was finally achieved through the Charter, is somehow being ignored. The honourable Prime Minister claims that holding the elections of Punjab earlier is a ‘conspiracy’ which would disrupt the nation and put at risk the entire democratic structure of Pakistan. He may be right, but what about the Constitution? What about the 18th Amendment? What about Provincial Autonomy? What about all those wonderful things we heard about the devolution of power?