

### **Economic reforms: Part - XXXVI**

The abrogation of the 1956 constitution brought great uncertainties for fiscal federalism as the NFC had not been constituted for nearly two years since the constitution came into effect in March 1956 and, by default, the Raisman Award 1951 continued to occupy the field, with the shares of the provinces in the western wing amalgamated into a single unit.

The Law (Continuance in Force) Order, 1958 succeeded the 1956 constitution and became the supreme law of the land. The order was promulgated on October 27, 1958, but was given effect from October 7 – the day when the then president, without lawful authority, abrogated the constitution. More significantly, the law provided for the continuance of the 1956 constitution, calling it the “late constitution”, so long as it wasn’t in conflict with the order and the powers provided therein to the administrator and deputy administrators of martial law.

An immediate corollary for fiscal federalism was that the two-unit scheme survived the abrogation. Despite the fact that the provision of the 1956 constitution relating to the NFC was not in conflict with the order, it wasn’t considered expedient to constitute it. This would happen with the adoption of a new constitution, the constitution of 1962, that fundamentally altered the structure of governance in the country from parliamentary to presidential and, in the process, sowed the seeds of political discontent, which many felt – despite remarkable economic development – further complicated inter-provincial relations across the country.

In a remarkable move, though, the 1962 constitution fashioned a new division of legislative powers between the federal and provincial governments. The three-list division was done away with and in its place there was only a single list, contained in the Third Schedule, containing the subjects in which the central legislature had exclusive jurisdiction to make laws and exercise executive authority. Everything else belonged to the provinces. There was, however, an overriding provision that endowed the central government to legislate on the subjects that weren’t provided in the Third Schedule in case (a) national security, including the economic and financial stability of Pakistan; (b) planning or coordination; or (c) the achievement of uniformity in respect of any matter in different parts of Pakistan so desired.

The constitution also provided for the NFC, besides establishing a new forum for national economic planning called the National Economic Council (NEC). Curiously, it was assigned some different functions also, including matters relating to the NEC. In view of its significance, we reproduce Article 144 of the constitution, which gives the description of the NFC’s term, composition, the scope of taxes to be considered, and the time for making recommendations and submitting a report.

Unlike in the 1956 constitution, the NFC was not to be constituted every five years. The composition was the same.

The most significant clause was as follows: “(4) A national finance commission constituted for the purposes of this clause shall make recommendations to the president with respect to: (a) the distribution between the central government and the provincial governments of the proceeds (after deducting the cost of their collection) of the following taxes:- (i) Taxes on income, including corporation tax, but not including taxes on income consisting of remuneration paid out of the Central Consolidated Fund; (ii) Taxes on sales and purchases; (iii) Export duty on jute and cotton, and such other export duties as may be specified by the president; (iv) Such duties of excise imposed under a central law as may be specified by the president; (v) Such other taxes as may be specified by the president; (b) the making of grants-in-aid by the central government to the provincial governments; (c) the exercise by the central government and the provincial governments of the borrowing powers conferred by this constitution; and (d) any other matter relating to finance referred to the commission by the president”.

The most significant departure from all previous formulations (1935 Act, the Niemeyer Award, the Raisman Award and the 1956 constitution) was the inclusion of the corporation tax in the divisible pool, which was earlier

reserved for the centre. In all other respects, the scope of clause 4 was the same as provided in the 1956 constitution.

Another major difference relative to all past awards was the non-binding nature of recommendations of the NFC. All previous awards were required by the president/governor-general to accept and notify the recommendations of the commission. In this case, the clause 5 provided as follows: “(5) As soon as is practicable after receiving the recommendations of the commission referred to in clause (4) of this article, the president shall, after considering the recommendations, specify by order the share of the proceeds of the taxes referred to in paragraph (a) of clause (4) of this article which is to be allocated to each provincial government, and that share shall be paid to the government of the province concerned, and notwithstanding Article 37, shall not form part of the central consolidated fund”.

This discretion was thus the cushion provided against an award that the centre may not have liked. Although such a situation did not arise, some recommendations were accepted with modifications, when two awards were given in 1962 and 1965 under the new constitutional framework.

Before we discuss the two awards, a few observations with respect to the economic conditions prevailing between 1951 and 1962, when Raisman Award remained in the field, would be in order. It is widely known that this is the period when five-year plans had become the mode of economic management. Pakistan achieved remarkable economic growth on the back of the so-called Green Revolution (mechanised farming) and significant flows of foreign assistance that helped sustain an import-substitution-based industrial policy. Winners and losers were selected by government policies rather than market outcomes.

Unfortunately, economic imbalances were all-pervasive across different regions as well as between labour and capitalist classes. All elements for a disruptive change were fused for a final act. We will examine what role the 1962 and 1965 awards played in this disruption in subsequent articles.

To be continued

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