

Rolling back 18th Amendment?

No one from the so-called Establishment or the unidentified ‘they’ has openly vouchsafed the imperative of rolling back the 18th Constitutional Amendment – though over the last few months, particularly since the PTI has come to power, there have been muted murmurs about this mindset. Should this happen it would obviously turn the tables on the votaries and practitioners of greater provincial autonomy, and vindicate the legacy bequeathed by the successive Martial Law regimes. The PTI opponents attribute this probability to the “selected government” of Imran Khan. And, their criticism draws sustenance from perception that some of the ‘Naya Pakistan’ plans and programmes obliterate the red lines separating powers of provinces from the centre as drawn by the 18th Amendment. What rankles with detractors of the said amendment is the excessive fiscal resources diverted to provinces, and that it has distanced the provinces from Islamabad. More specifically, as asserted by Senator Raza Rabbani, one of the principal architects of the 18th Amendment, “such a move (of rolling back the 18th Amendment) will cause very, very serious consequences for the country”. For example, it ordained that a “new National Finance Commission award could not be less than the one it preceded”, pointing out that a military dictator reduced it from 56 percent to 46 percent. And that now there is the move also in that direction, causing anxiety about the announcement of new award. Given that education and health sectors are now provinces’ babies, provinces need more funds. Opposition to this probability has been voiced by leaders from all three smaller provinces. National Party (NP) president Hasil Bizenjo says the country is now in the grip of a “silent martial law”, adding that his party and other parties would strongly resist such a move. He has also asserted that a “selected democracy” put in place through “institutionalized” rigging is acting as cat’s paw to roll back the 18th Amendment. The Qaumi Watan Party chief Aftab Sherpao warned that slashing the share of smaller provinces would weaken the federation. The question is why there is a move to roll back the piece of law which tends to reinvigorate the public confidence in the restructured federal system in Pakistan and boosts the sense of equality among people who otherwise have their own socio-cultural milieus.

The former president and the PPP leader Asif Ali Zardari has come up with an implausible argument. According to him, the real issue behind all actions planned against him is the 18th Amendment that his PPP government introduced to devolve powers to the provinces. His and his friends’ cases of corruption are before the courts and therefore beyond our comment. But we do insist that his and his friends’ cases have nothing to do with this rollback controversy. And he knows, as we all do, that given the existing makeup of party positions in parliament and provincial assemblies there is absolutely no possibility of undoing a constitutional amendment. Only a new constitutional amendment can undo the 18th Amendment and for that the movers of rollback need two-thirds of the total membership in each of the two houses. And thus the relevant Article puts paid also to the PTI’s wish to create ‘South Punjab’ province because for that in addition to two-thirds of votes of the two houses of parliament if the mover would also need two-thirds of votes of the provincial assembly of the province whose limits are to be

altered. That being the legal position the rollback possibility is not there, but what such a debate has the desired potential to generate a nationwide controversy over the said amendment. We believe that instead of tilting on this windmill of rollback, its defenders would be well advised to focus on controversial issues like the National Finance Commission award by precipitating debate on the floor of the elected houses and in the street – while the PPP should do its fighting in courts.