

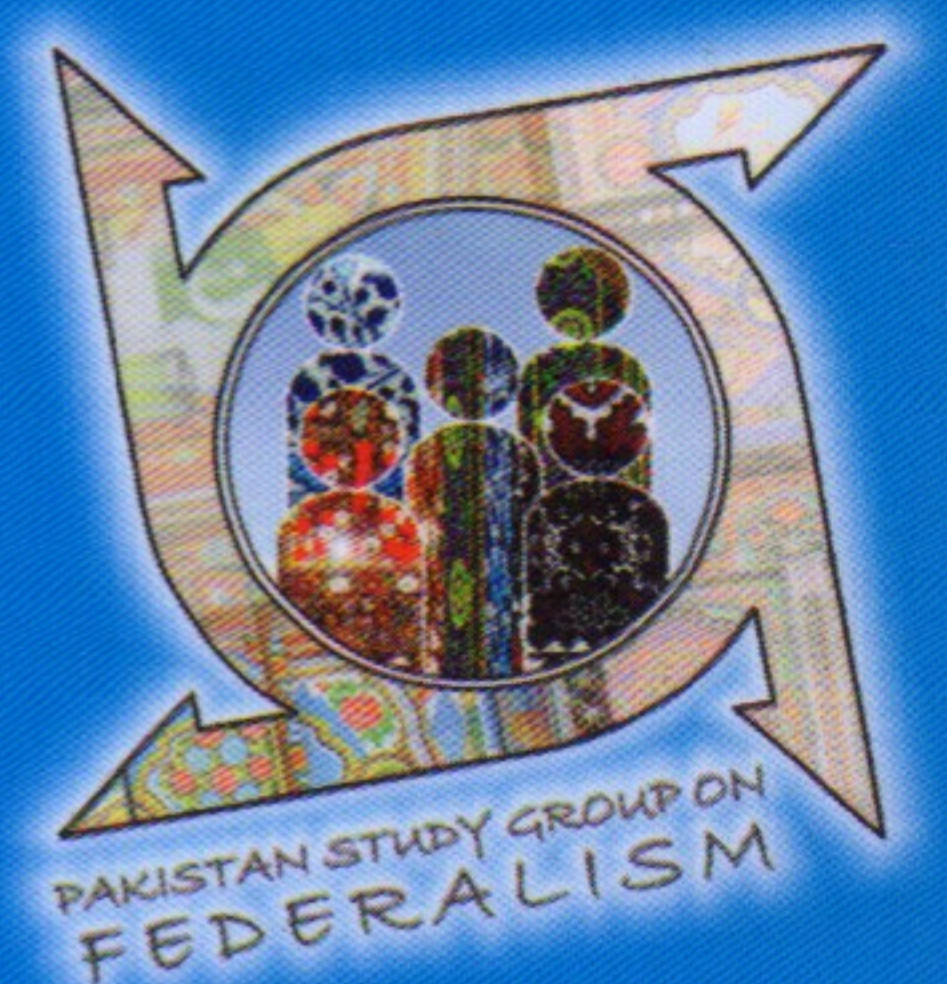
COUNCEL OF COMMON INTERSTS

Federal Legislative List Part-II Section 14



PAKISTAN STUDY GROUP ON
FEDERALISM

SCOPING STUDY PAPERS
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LIST OF ACRONYMS

CCI	Council of Common Interest
ECNEC	Executive Committee of National Economic Council
EPZA	Export Processing Zones Authority
IPC	Inter Provincial Coordination
KESC	Karachi Electric Supply Company
LNG	Liquefied Natural Gas
NADRA	National Database and Registration Authority
NEC	National Economic Council
NEPRA	National Electric Power Regulatory Authority
NFC	National Finance Commission
NHA	National Highway Authority
NIC	National Identity Cards
NIHCR	National Institute of Historical and Culture Studies
OGRA	Oil and Gas Regulatory Authority
PBS	Pakistan Bureau of Statistics
PEMRA	Pakistan Electronic Media Regulatory Authority
PEPCO	Pakistan Electric Power Company
PML	Pakistan Muslim League
PPP	Pakistan People's Party
PPRA	Public Procurement Regulatory Authority
PSDP	Public Sector Development Program
PSGF	Pakistan Study Group on Federalism
PTA	Pakistan Telecommunication Authority
UNDP	United Nation Development Program
USA	Untied State of America

EXECUTIVE SUMMARY

The study on Performance of The Council of Common Interest focuses on the performance of Council of Common interest after eighteenth amendment as far as its constitutional obligations about the entries in the federal legislative list part two are concerned. It tracks CCI performance on policy formulation and regulation, supervisions and exercising control over the institution relevant to the subjects like Railways, Mineral oil and natural gas, liquids and substances declared by Federal law to be dangerously inflammable; Census, Regulatory Authorities, Council of Common Interest, Interprovincial Matter and Coordination and Electricity after 18th amendment to date.

However it reviews historical background of council and its performance since its inception to 2010. It also reviews CCI constitutional obligations in the context of right to information which is also a constitutional obligation.

The study gives the policy recommendations and guidelines about the improvement of the performance of the Council of Common Interest in order to fulfill its institutional design of federalism, provincial autonomy and citizen empowerment.

The study is divided in four parts. The first part contains an introduction to the council; problem statement literature review methodological framework while the second part briefly reviews the history of council explores the council's relation to federal governments and its performance about its constitutional obligations before 18th amendment. And third part evaluates the performance of council on its constitutional obligations about right to information and these entries into Federal Legislative List including Railways, Census, Council of Common Interest Itself, Mineral Oil and Gas, Regulatory Authorities Interprovincial Matters and Coordination and Electricity.

The study takes up recommendations about the performance of these subjects in the fourth part alongside conclusion and policy guidelines.

The study reveals that CCI gives brief and incomplete information about its policy formulation and regulation, supervision and exercising control over relevant an institution which does not help and support public in analyzing its policy decisions. CCI does not inform and educate both parliament and citizens about policy options and choices. Thus, it does not fulfill its constitutional obligations about right to information which makes it impossible for citizens to participate in the policy decisions of the council. Furthermore, it has stopped presenting its annual reports before parliament and publishing it for people since 2013.

The study shows although CCI has a jurisdiction over subjects in Federal Legislative List Part two but it does not consider these subjects in detail. Whenever it takes decisions, it does not follow implementation of those decisions frequently. In cases like Liquefied Natural Gas, it does not solve its jurisdiction issues which cause legal and constitutional problems like contracts, payments, import and distribution which still remain unsolved.

The study uses books, news articles, essays, news stories, websites, and interviews with politicians and government officials, videos, parliament records and government record to track and analyze CCI performance.

The study investigates the performance of the CCI over last five years on above mentioned subject about its constitutional obligations on these subjects. It finds out that however CCI has been proactive after 18th amendment than before 18th amendment but it fails to fulfill its constitutional obligations which are harmful for its present and future role as an important constitutional mechanism for participatory federalism, provincial autonomy and citizen empowerment.

Although CCI has taken important steps towards considering the issues relevant to electricity but nothing important has happened. CCI had been discussing privatization of power entities in 1993-94 .It still discusses the privatization of those entities but no privatization has occurred.

The study investigates the performance of CCI before 18th amendment where CCI stops functioning as useful constitutional body due to state's moves to centralization.

The study finds out those decisions about subjects like Electricity, Mineral oil and Natural gas, Council of Common Interest, Census, Regulatory Authorities and Interprovincial Matter and Coordination and Railways have been taken in consensual spirit but CCI stops to function properly when major objections come from provinces. CCI does not hold its meetings in spite of requests for meeting from provinces.

The study briefly discusses CCI's performance in the context of federalism and citizen empowerment. It reveals that CCI does not explore its possibilities for participatory federalism and citizen empowerment by neglecting its constitutional obligations about the subjects it has jurisdiction over.

The study provides recommendations about citizen participation, expert output, and information quality, separate secretariat, fulfilling constitutional obligations, parliamentary supervision and civil society engagement at about the subjects it takes up.

The study recommends that CCI should be more active about its constitutional obligations of policy formulation and regulation, supervision, exercising control over institutions relevant to its subjects, dispute resolution and federal and interprovincial

Coordination. The study recommends CCI should increase its research capacities by involving experts and general public feedback for suggestions and recommendations.

The major thrust of the study is to state that fulfilling constitutional obligations actively and diligently would ensure that CCI promotes the participatory federalism and citizen empowerment. Thus it would serve the purpose of its institutional design.

1. COUNCIL OF COMMON INTEREST AND ITS PERFORMANCE

1.1 Introduction

The state of Pakistan has been struggling with the issues federalism, decentralization, provincial autonomy and citizen empowerment since its birth. The council of common interest was an innovative response by Pakistani lawmakers to address these issues after the tragic events in the East Pakistan in war, loss of lives, citizens, financial resources and a part of country in 1971.

Originally, the Council of Common Interest was designed quite creatively to improve provincial coordination about matters of national importance such as Railways, Mineral oil and gas, development of industries, electricity alongside other important matters which would be discussed during the course of this study. The council went through a transformation after 18th amendment in 2009 which increased its constitutional obligations as well as the subjects in the federal legislative list part 2.

The transformation of CCI after the 18th amendment is a big step towards provincial autonomy, decentralization, federalism, interprovincial coordination, consensual decision making and citizen empowerment. It increased the CCI participation in national institutional discourse after eighteenth amendment which is a positive step towards better representation.

Keeping its constitutional potential in view, a few experts believe that CCI is even stronger than national cabinet of the country. A few others view it as a bulwark against the military intervention into political sphere if it realizes its constitutional potential. These experts believe that improved interprovincial coordination would strengthen the federation through consensus building about policy, fair distribution of resources, better communication of grievances, better listening to those grievances and better representation.

However, the success of CCI constitutional potential and its institutional design depends upon the performance of CCI about its constitutional obligations. The more it would perform the more it would come close to its promise of democratic federalism, provincial autonomy, interprovincial coordination and citizen empowerment.

This study attempts to evaluate the performance of the council of common interest as far as its constitutional obligations are concerned in order to highlight its importance for the democratic and prosperous future of our country. It also gives the recommendations and policy guidelines on the performance of the council of common interest about its constitutional obligations.

1.2 The Problem Statement

After 18th amendment the Council of Common Interest has emerged as the most important constitutional body for participatory federalism, provincial autonomy and citizen empowerment constitutionally. Many constitutional experts view it as more important and

more powerful constitutional body than Cabinet itself for policy formulation and regulation, supervision and exercising control over institutions relevant to the subjects under federal Legislative List Part two, interprovincial coordination and dispute resolution.

It has been viewed by many constitutional experts as a bulwark against martial laws and military intervention into political domain. It has been also touted as a protector of consensus politics in Pakistan as envisioned in Charter of Democracy. Furthermore it has been viewed as a guarantee of strong democracy, participatory federation and empowered citizenry.

Currently it has eighteen subjects under its jurisdiction in the federal legislative part two. The study covers Railways, Mineral oil and natural gas, liquids and substances declared by Federal law to be dangerously inflammable; census, Council of Common Interest , regulatory authorities ,interprovincial coordination and electricity.

The study aims to investigate the performance of CCI after eighteenth amendment on these subjects regarding its constitutional obligations of policy formulation and regulation, supervision and exercising control over the institutions relevant to these subjects .It also aims to monitor and evaluate CCI performance over last five years on these subjects in the context of right to information and citizen participation.

It focuses on the outcome of CCI performance in order to assess how CCI has improved the performance of institutions and services relevant to these subjects.

It aims to highlight the achievements and challenges as far as the fulfillment of constitutional obligations of these subjects is concerned. This study also intends to trace the practical consequences of CCI decisions for citizens and institutions designed for public well being.

This study intends to develop and design policy recommendations and guidelines for improving the performance of CCI in order to support it to realize its constitutional obligations in order to strengthen participatory federalism, provincial autonomy and citizen empowerment.

1.3 Literature Review

A vast treasure of literature is available on federalism, provincial autonomy and citizen empowerment but the literature available on Council of Common Interest is limited.

However the study uses whatever literature is available on CCI. It focuses on published CCI annual reports, essays, news stories, videos, constitution, CCI meetings, journals, articles, lectures, seminars, official documents, websites and published interviews to assess CCI performance on the relevant subjects.

1.4 Methodological Framework

The study uses both inductive and deductive means to support its analyses of CCI performance with evidence. The study uses focus group discussions with politicians, government officials, academics, media and civil society in order to develop an understanding and analyzing CCI

performance. In addition, it uses detailed interviews with government functionaries and academics working on CCI.

It also uses news reports from electronic and print media published on CCI performance over the years. It uses government websites to monitor and evaluate CCI performance. Moreover, it uses parliamentary record, government record, CCI annual reports, articles, essays, journals, research reports, books, lectures and magazines to support its analysis with evidence.

It uses creative imagination and problem solving techniques and method alongside collected facts for recommendations on better future performance.

2. CCI PERFORMANCE EVALUATION BEFORE 18TH AMENDMENT

2.1 CCI A Historical Review

The state of Pakistan has been grappling with these issues since its inception and even before that. In fact, demand for Pakistan as a separate state has been evolved from demands for better democracy and provincial autonomy. Public could see these demands in various documents at various stages of movement for Pakistan. Also public could see this demand in Delhi proposals, fourteen points and Lahore resolution alongside many other important documents and historical records of Movement for Pakistan.

After Pakistan came to existence in 1947 as a federation, it was natural that these demands for better share, better say and provincial autonomy presented a challenge to newly found state.

Pakistani state took the centralization of power route in order to answer these demands through undermining democracy by delaying framing of constitution, using security as a tool to suppress the citizens and ultimately taking the principle of Parity to deprive the Bengali majority its fair share in the governance of Pakistan.

This Parity Principle meant parity between East and West Pakistan in combined Houses, with 175 seats for each zone. So in total, both the wings were to have 175 seats each in the two Houses of the Legislative Assembly'.

This parity principle resulted in creation of One Unit. 'Prime Minister Muhammad Ali made the first official announcement on November 22, 1954, enumerating the benefits of having one unit or province. On September 30, 1955, the Assembly passed the bill merging 310,000 square miles into a single province, with Lahore as its provincial capital. West Pakistan had formerly comprised three Governor's provinces, one Chief Commissioner's province, a number of states that had acceded to Pakistan, and the tribal areas. Geographically, they formed a homogenous block with easy communication, but with marked linguistic and ethnic distinctions. The result of the new bill was to unify these various units into one province to be known as West Pakistan'.

This development meant abolition of the smaller provinces and neutralization of East Pakistan Majority in Population. Like it happens when a state undermines democratic principles, its citizens suffer. This undermining of democracy by West Pakistan politicians, bureaucracy and military establishment lead to martial laws and unfortunate dismemberment of Pakistan in 1971 when East Pakistan became a separate country after a civil war which lead to war between India and Pakistan.

Keeping in view this tragic background the constitutionalists of Pakistan designed a Council of Common Interest in order to move towards provincial autonomy and citizen empowerment in 1973. It was a unique Pakistani contribution to federalism for better democracy, provincial autonomy and better coordination between federal and provincial governments.

This Council of Common Interest had constitutional obligations of formulating and regulating the policies about the subjects under federal legislative list part two. A few of these subjects have been discussed in the study while analyzing the performance of CCI before and after eighteenth amendment. Besides, CCI was also responsible for supervision and exercising control over the institutions relevant to these subjects.

Moreover CCI had the responsibilities for dispute resolution about water share of provinces, electricity generation set ups and provincial coordination.

CCI had four chief ministers and four members of federal government as its members and it was responsible to Parliament.

After Eighteenth Amendment 2010, CCI went through a transformation towards further movement towards participatory federalism, provincial autonomy and citizen empowerment constitutionally. It has more subjects under its jurisdiction. Constitutionally, it has to have its own separate secretariat. It has to meet regularly. Besides, it is supposed to present an annual report before parliament about its performance. Right to information Article makes it binding on CCI to share its performance with public too. To fulfill this purpose Ministry of Interprovincial Coordination publishes annual reports on its website.

These new additions to legal framework of CCI are a consequence of reconciliation politics started by late PPP leader Benazir Bhutto with current Prime Minister Nawaz Sharif (Muslim League N) back in early years of first decade of twenty first century. These initiatives on reconciliation have been formulated as a pact between above mentioned larger parties. And this pact has become a guiding light to reconciliation politics in Pakistan.

CCI has a great potential and possibilities for realizing the goals of Participatory federalism, decentralization and citizen empowerment if it fulfills its constitutional obligations. But when it neglects its constitutional obligations, it would lose the effectiveness towards these goals chartered in the constitution.

2.2 CCI and Federal Governments

Pre 18th amendment CCI could not fulfill its constitutional obligation and purposes of its institutional design. It met only eleven times since its inception to 2009. Zulfikar Ali Bhutto government took the centralization road by dismissing the provincial governments which it did not like. This dismissal of provincial governments did not let the spirit of provincial autonomy thrive very much. The refusal to work together proved quite dangerous for CCI institutional design because it was about consensus, coordination and participation.

General Zia regime did not call CCI once because he centralized power in his hands and did not give any importance to the constitution. His regime proved to be quite harmful to democracy, participatory federalism and provincial autonomy. According to historians, the province Sindh went through troubles during his regime. The demands for a Separate homeland for people of

Sindh grew after he launched a regime of oppression in order to persecute the supporters of PPP leadership who he hanged, imprisoned and exiled.

Democratic governments working under 8th amendment passed by Muhammad Khan Junejo assembly also did not focus on using CCI for participatory federalism, provincial autonomy and citizen empowerment. This important constitutional resource for a better deal for the citizens was not used in the same way Pakistan does not use its natural and human resources properly.

Conflict Politics in 90s where politicians were busy in undermining each other and whatever they could was not a good environment for using the constitutional body which is about sharing, compromising and participating. But under Nawaz Sharif government CCI met on occasions. CCI took the decisions in 1991 on water share and privatization but nothing meaningful materialized.

CCI did not meet in the Musharraf era apart from one time when federal government wanted to discuss the privatization of Pakistan Steel Mills. During this period an insurgency in Baluchistan occurred after Musharraf government killed Nawab Akbar Bugti over share of natural resources of Baluchistan.

It is quite ironic that absence and ineffectiveness of CCI mostly coincides with increase of military involvement in the political affairs. Currently, CCI has not held its meetings for some time. Military is having a robust involvement in political affairs such as operations against prominent politicians accused of corruption during this period.

CCI has been more proactive with more responsibilities and more jurisdictions after 18th amendment. 'After passage of the Eighteenth Constitutional Amendment, it is mandatory for the Council to meet once in ninety days. As such, the Council has held 15 meetings since 2010. Besides it has considered and decided 96 issues according to IPC website.

While analyzing its performance after 18 amendments, we have come across that CCI has not informed the public and parliament adequately about its policy decisions which makes it difficult for both public and parliament to evaluate its performance properly.

CCI has not considered a few subjects at all like major ports. These ports are an important feature in Pak China Economic Corridor. During an interview about CCI a senator from Baluchistan shared his reservations about Gawadar port. He expressed his fears about Gawadar Port and following economic activity might cause demographic imbalance in his province.

Provinces are also not active in seeking CCI meetings. The constitutional time frame for CCI meeting has lapsed but no province managed to pressurize the federal members to call a CCI meeting.

Parliament is also not proactive in ensuring that CCI follows its constitutional obligations. CCI has not presented its annual reports to parliament for two years but Parliament has not demanded its immediate presentation for a long time.

Above all CCI does not involve public into its decisions very much. It does not ensure public participation into its policy choices. Currently CCI decisions are an affair between bureaucrats and CCI members without any public participation.

CCI does not discuss its policy decisions in detail before and after it takes decisions. It is difficult to know for public about details of policy options. This disconnect from public is against the institutional design of CCI. It does not strengthen participatory federalism, decentralization and citizen participation.

2.3 CCI Performance before 18th Amendment

CCI had been designed to increase provincial autonomy, improve provincial coordination and dispute resolution in 1973 as a constitutional response separation of East Pakistan in 1971. Besides it was supposed to formulate and regulate policies, supervise and exercise control over the subjects in federal legislative list part 2 and institutions relevant to these subjects. It was not obligatory for CCI to present any annual reports to parliament but it was accountable to Parliament before 18th amendment. Furthermore, Prime Minister did not have to be its chairman. It had eight subjects under its jurisdiction in federal legislative list part two. On the other hand Federal Legislative list has eighteen subjects after 18th amendment. It had no fixed time for its meetings. But it has to have its meeting once every ninety days after 18th amendment. The constitution did not mention a separate secretariat before 18th amendment which is obligatory for CCI after 18th amendment.

Since we have been discussing CCI performance in the contexts of its obligations regarding subjects and institutions under its jurisdiction in federal legislative list part two, we would keep our focus on CCI performance of policy formulation and regulation and supervisions and exercising of control of the institutions relevant to its jurisdictions. From 1973 to 2010 CCI had these subjects in federal legislative list part two under its jurisdiction.

The subjects mentioned in Part-II of the Federal Legislative List over which CCI had mandate to formulate and regulate policies included:-

- (1) Railways.
- (2) Mineral oil and natural gas; liquids and substances declared by Federal law to be dangerously inflammable.
- (3) Development of industries, where development under Federal control is declared by Federal law to be expedient in the public interest; institutions, establishments, bodies and corporations administered or managed by the Federal Government immediately before the commencing day, including the West Pakistan Water and Power Development Authority and the West Pakistan Industrial Development Corporation; all undertakings, projects and schemes of such institutions, establishments, bodies and corporations, industries, projects and

undertakings owned wholly or partially by the Federation or by a corporation set up by the Federation

. (4) Council of Common Interests.

(5) Fees in respect of any of the matters in this Part but not including fees taken in any court.

(6) Offenses against laws with respect to any of the matters in this Part.

(7) Inquiries and statistics for the purposes of any of the matters in this Part.

(8) Matters incidental or ancillary to any matters enumerated in this Part.

CCI had been less proactive than before 18th amendment than current CCI. It had only eleven meeting from its inception to 2009. This small number shows clearly that CCI neglected its constitutional obligations of policy formulation and regulation, supervision and exercising of control of institutions relevant to the entries in then federal legislative list part two. It had other responsibilities and obligations on electricity, water and dispute resolution which it also ignored.

Pakistan went through two martial laws and two civilian versions of governance where sitting chief of army staffs served as presidents for more than two decades while democratic governments of Benazir Bhutto and Nawaz Sharif worked under the Damocles Sword of 8th amendment which empowered the civilian presidents to dismiss the elected government. The presidents used those powers quite happily against both prime ministers three times.

General Muhammed Zia Ul-Haq as Chief Martial Law Administrator and As President did not call any CCI meeting. President Musharraf had one CCI meeting over privatization issues, especially privatization of steel mill issue. The steel mill issue was quite controversial as then Supreme Court had banned its privatization which government tried to tackle by reconstituting CCI. In the words of then Prime Minister Shauket Aziz "I had sent my recommendations for formulation of the CCI to the president a few days ago which he has approved," said the premier, adding that the Supreme Court had mentioned the revival of the CCI in the Pakistan Steel Mills (PSM) case and the government too wanted to fulfill a constitutional requirement'.

Civilian governments of Zulfikar Ali Bhutto and Nawaz Sharif had nine meetings of CCI. One meeting was held by an interim government in 1993 which took the decisions of privatization of Water and Power Development Authority. No Benazir Bhutto government had any CCI meetings.

Ministry of Inter-Provincial coordination does not provide any record of detailed or summarized decisions of CCI before 18th amendment. It is difficult to evaluate the CCI decisions without that important information.

The study would discuss the importance of information, citizenship empowerment and consumer protection in detail in its analysis of CCI performance after 18th amendment but it is

sad fact of Pakistani history that citizens do not feature as participants in the decisions of constitutional bodies of Pakistan. Although these decisions affect their lives as these decisions are about the matters and services that affect their lives politically, economically and socially. This lack of participation from citizens causes so many troubles for citizens but CCI after 18th amendment does not do much about ensuring citizen participation into its decisions making process.

For example IPC ministry does not provide the details of 1993 CCI meeting held by interim government but we know it was about privatization of WAPDA and amendments in 1958 WAPDA act. It discussed amendments to WAPDA act again in 1998.

Currently, CCI has again decided the privatization of power entities like electric supply companies in its February 2014 meeting. So far according to news this privatization is under process and no electric supply company has been privatized. A newspaper reported in February 2015 that 'After completing the Faisalabad Electricity Supply Company transaction in July, the government intends to sell Lahore and Islamabad companies by the end of this year'. But the privatization of those has not materialized even in October of 2015.

In July there were 'Five parties were in competition for financial services of Faisalabad Electric Supply Company (Fesco), including BMA, Consortium of UBL and Earnst& Young, SSJBL and Burj Power, Alma Capital and Grant Thornton.

We could see privatization has not moved very much since its first discussion in 1993. Employees of the electric power supply companies and WAPDA have been protesting against privatization of power entities every now and then while public suffers power cuts and rising bills all over Pakistan.

In another Instance, CCI discussed Punjab Housing Facilities for Non Properties In Rural Areas Act 1975 in its 3 December 1976 meeting. This act was replaced with Punjab Jinnah Abadis for Non-proprietors in Rural Areas Act 1986. This time CCI did not discuss it at all. We could not find any information whether any changes were made to the 1975 act apart from the name online.

But as far as citizens are concerned 'The country is facing shortage of over 9 million housing units as formal financial sector caters only up to 2 per cent of all housing transactions, the lowest ratio in region' according to world bank.

CCI is a constitutional body designed for the welfare of citizens. We cannot restrict it to provincial autonomy because provincial autonomy is also a tool for citizen well being. Therefore, the benefits of its decisions must reach to citizens at the local level.

It is obvious CCI alongside other constitutional bodies did not function as mechanism for citizen welfare before 18th amendment due to Martial laws, derailment of democracy and growing disrespect of law in the society. But it does not work effectively as a constitutional body for

citizen welfare and empowerment even after it has more powers and more responsibilities after 18th amendment too.

CCI also decided the Indus Water Accord in 1991. It was a positive step towards consensual decision making in those days of tough conflict among politicians. Pakistan has built upon consensual decision making of that type through post 18th amendment CCI alongside other channels of consensual decision making but this consensual decision making among politicians have not benefitted citizens through improving the situation of water resources in the country. A New IMF report 'throws the severity of Pakistan's water crisis into sharp relief. Pakistan has the world's fourth highest rate of water use. Its water intensity rate — the amount of water, in cubic metres, used per unit of GDP — is the world's highest. This suggests that no country's economy is more water-intensive than Pakistan's.

This aggressive water consumption portends catastrophic consequences. According to the IMF, Pakistan is already the third most water-stressed country in the world. Its per capita annual water availability is 1,017 cubic meters — perilously close to the scarcity threshold of 1,000 cubic meters.

Back in 2009, Pakistan's water availability was about 1,500 cubic meters. According to projections from a study IMF produced that year, called Running on Empty, Pakistan would not become water scarce until 2035. Instead, thanks to lightning-fast consumption rates, Pakistan is nearly water-scarce today. The report views that poor water governance, rapid population growth and climate change are reasons for Pakistan's Water Crisis.

CCI is responsible for complaints from provinces regarding interference with water supplies and reservoirs, currently.

Pre 18th amendment CCI could not and did not fulfill its constitutional obligations of policy formulation, supervisions and exercising control over relevant institutions relevant to the subjects under federal legislative list part two.

It did not discuss the important subjects like oil and natural gas over more than twenty years. A few of its policy decisions have been discussed above which went against interests of citizens. It did not provide any detailed information of its decisions. It did not ensure public participation into its decisions. It did not give any detailed policies on the subjects under federal legislative part two. Furthermore it did not provide any evidence on its website of CCI supervising and exercising control over the institutions relevant to the subjects of federal legislative list part two.

The Council of Common Interest has been designed as constitutional mechanism in order to redress the demands for better democracy, provincial autonomy, better coordination among federal and provincial governments and citizen empowerment. It could not live up to its institutional design before 18th amendment for 27 long years.

CCI Performance after 18th Amendment

After the eighteenth amendment, it is constitutional obligation unto CCI to formulate policies, regulate policies, supervise and exercise control over institutions relevant to these subjects.

(1) Railways;

(2) Mineral oil and natural gas, liquids and substances declared by Federal law to be dangerously inflammable;

(3) Development of industries, where development under Federal control is declared by Federal law to be expedient in the public interest; institutions, establishments, bodies and corporations administered or managed by the Federal Government immediately before the commencing day, including Water and Power Development Authority and Pakistan Industrial Development Corporation and all undertakings, projects and schemes of such institutions, establishments, bodies and corporations; industries, projects and undertakings owned wholly or partially by the Federation or by a corporation set up by the Federation;

(4) Electricity;

(5) Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of port authorities therein;

(6) All regulatory authorities established under a Federal law;

(7) National planning and national economic coordination including planning and coordination of scientific and technological research;

(8) Supervision and management of public debt;

(9) Census;

(10) Extension of the powers and jurisdiction of members of a police force belonging to any Province to any area in another Province, but not so as to enable the police of one Province to exercise powers and jurisdiction in another Province without the consent of the Government of that Province; extension of the powers and jurisdiction of members of a police force belonging to any Province to railway areas outside that Province;

(11) Legal, medical and other professions;

(12) Standards in institutions for higher education and research, scientific and technical institutions;

(13) Inter-provincial matters and co-ordination;

(14) Council of Common Interests;

(15) Fees in respect of any of the matters in this Part but not including fees taken in any court;

(16) Offences against laws with respect to any of the matters in this Part

(17) Inquiries and statistics for the purposes of any of the matters in this Part; 15

(18) Matters incidental or ancillary to any matters enumerated in this Part.

This study examines the performance of council on Railways, CCI, Mineral Oil and Natural Gas, Electricity, Regulation Authorities and Interprovincial Coordination in order to have a clear picture about CCI performance so far.

3.1 CCI and Right to Information

Before moving to the performance of CCI on its constitutional obligations relevant to its federal Legislative list part 2, the study explores its performance on its constitutional obligation about Right to Information.

Article 19 A of the constitution says it clearly 'Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law]'.

CCI has published three Annual Reports in order to fulfill its right to information obligations since its establishment but it has not published any annual reports for last two years. Obviously, it is a violation of an important right of the citizen. Like any other violation of citizen rights, it leaves citizens in the darkness about CCI workings.

It does not leave any room for citizen for monitoring and evaluating the performance of CCI. It is very difficult for citizens to participate into policy recommendations when they have no information about CCI workings.

CCI has been established in the spirit of citizen participation and devolution of power but this refusal by the CCI to share information with citizens denies both citizenship participation and devolution of power.

Ministry of Inter- Provincial Coordination is responsible for sharing information on CCI. This ministry does not offer any reasons or causes for not publishing CCI annual reports. It seems silence is an answer from the CCI when it comes to fulfilling the constitutional obligations.

The annual reports CCI has published since its establishment as a constitutional mechanism for policy formulation, policy regulation and dispute resolution about the subjects and institution of the federal legislative list part 2 are in English language. A reports published in Express Tribune (July 20, 2013) says that only 18 millions Pakistanis have command over English language. Pakistani Population is estimated at 185,132,926 as of July 1 2014. It means CCI values a minority of English Speaking population more than an overwhelming majority of Pakistani population who don't have command over English language.

As CCI has been designed to promote Participatory Federalism through giving a fair share to the provinces, it should not neglect both national and provincial languages. Neglecting right to

information on this big scale is a violation of the constitution.

Not providing Citizens information about the performance of CCI is also violation of the constitutional obligation of representation. As mentioned before that CCI members are the top leaders of the country. This disregard of right to information of the citizens is another example of the higher ups looking down upon the common people. It shows policy decisions in the CCI about important issues could go ahead without citizen participation into decision making process. Hence, lack of information turns representation into royal decrees.

Moreover, it also shows citizens do not know the outcomes CCI decisions. This attitude of CCI does not help the causes of accountability and public participation. Certainly, CCI does not work as a constitutional body accountable to public. This disregard of public participation into important national and provincial issues cancels out the promise of participatory federalism.

When it comes to CCI constitutional obligations, the constitution says it very clearly that CCI must present an annual report before the Parliament. It is a fact that CCI has not fulfilled this constitutional obligation for the last two years but there is no evidence of parliament demanding that report from CCI on urgent basis. This is a classical case of information denied and participation delayed.

On the positive side, CCI does provide information on CCI constitutional obligations, rules and procedures, meetings and last three annual reports on IPC website. However it does not provide any information on the schedule of future meetings.

CCI Decisions and right to information

Here we present before you three decisions from by the CCI published in from each published report. We would analyze theses decisions in the context of right to information.

CCI Annual Report 2010-11

The Council of Common Interest (CCI) considered the summary dated 12th July 2010 submitted by Ministry of Interprovincial Coordination/ Secretariat of Implementation Commission on 'Implementation of Eighteenth Amendment' and noted the progress in the matter.

Implementation Status

Implemented.

This decision does not inform the citizens anything about content of summary and the nature of progress. They would have to figure everything out themselves about both these contents. They know that something happened but they don't know anything about what happened. Simply, they don't know the details about the decisions making process. Here, CCI informs citizens about something it has implemented but it does not give them adequate information.

And, this inadequate information does not help them as far as democracy is concerned. It does not lead to any informed choice on participation, accountability and right to information.

Although, according to CCI rules summaries should be secret during the meetings but there is no harm in publishing those summaries afterwards for public information. It would protect the right to information because it would help public to assess reasons, causes, processes and impact of CCI decisions on their lives.

The constitution has awarded CCI democratic choices. CCI should not forget that the constitution has given democratic choices to every citizen. CCI should not confine those choices to itself. It is against its constitutional design which is a step forwards to participatory federalism.

Here again council is too brief about providing the information. Citizens know about council's decision but they have no knowledge of details of issues. It would be tough for both citizens and parliament to assess or comment on an issue which CCI presents no real information. CCI informs them about its decision but it does not inform them about the reasons and cause about the decisions. Besides, it does not inform them about the issues it decides about. Moreover CCI does not give them any information about the process and outcomes of implementation.

Annual Report 2011- 12.

Case No. CCI.3/2/2012,dated August 8, 2012Approval of National Mineral Policy,2012.

Decision

The Council of Common Interests considered the Summary dated July 6, 2012, submitted by Ministry of Petroleum and Natural Resources on "Approval of National Mineral Policy, 2012" and Deferred its consideration as it involved issues of constitutional Jurisdiction and necessary consultation of stakeholders including Vetting by Ministry of Law and Justice.

Implementation Status

Deferred.

Impact

The decision provided guidance for resolution of issues of constitutional jurisdiction.

Again both citizens and parliamentarians would have to find details about the issues themselves. This information is again about the council's decisions. Here again, CCI does not provide any guidance to parliamentarians and other citizens to assess the policies for themselves.

After 2012-13 report, CCI stops providing even this type of scant information to both parliaments and ordinary citizens. A few experts view CCI as an institution stronger than

cabinet but CCI does not live up to its constitutional design by failing to fulfill its constitutional obligations.

3.2 CCI and Railways

According to 2010-11 CCI annual report, CCI waits for a summary on workings of Railways by ministry of Railways for a few months and allows the ministry to withdraw its summary on negotiations with Korean Rail.

CCI Annual Report 2010-11 has published the decisions taken by CCI. It does not provide proper information to both parliamentarians and ordinary citizens about the decisions process and details in the decision. It is difficult to form a comprehensive view about the performance of CCI on the basis of its annual reports 2010-11.

But it is clear that ministry of railways took months to prepare a summary on its workings and negotiation with Korean Railways. Later on CCI allows the ministry to withdraw its summary. CCI does not give any explanation about its decision about withdrawing the summary and apparently CCI also does not demand any explanations for delay in preparing the summary by Ministry of Railway.

It is understandable that Railways is a vast subject and preparing a summary means going through myriads of documents and files. Probably, the preparation of summary needed months but lack of detailed information does not help Parliamentarians to give their input on Railway issues.

Annual Report 2011- 12

CCI asked the ministry of Railways for the above mentioned summary once again.

That is only thing CCI does throughout the year. This time it is difficult to understand the delay. It has been two years but no information is available on the summary CCI asked the ministry to provide in the year 2011-12. It could be that ministry has been conducting a thorough research in order to prepare the summary require by CCI. It also could be that ministry has not been preparing the summary in a professional manner. CCI annual report 2011-12 does not explain anything about this delay in summary preparation. Besides; it does not explain anything about the content of summary at all.

This lack of information is a feature of this report too. It is difficult for parliamentarian and public to hold CCI accountable and suggest improvement into workings of railways on the basis of this scant information.

CCI Annual Report 2012- 13

This time CCI discusses Railways twice in its meetings. 'The Council of Common Interests considering the Importance of the issue of Working of the Railway which was likely to emanate a good discussion however due to the paucity of time decided to defer the consideration of the

Summary dated May 21, 2012 submitted by Ministry of Railways on “Briefing on the Working of Pakistan Railways” for consideration in the next meeting of the council.

It is clear that Ministry of Railways had submitted the Summary in 2012 but CCI could not discuss the summary due to shortage of time. CCI discusses the Railways working again and makes a decision finally which is mentioned here below.

‘The Council of Common Interests considered the Summary dated January 10, 2013, submitted by Ministry of Railways regarding “Briefing on the Working of Pakistan Railways” and directed that immediate attention be paid to revitalization of Pakistan Railways through adopting PPP Mode on the line of Japan Railways which is led by private sector profit maximization philosophy. The Council stressed for early resolution of respective Railway lands title vis-à-vis provincial claims, and also recommended installation of necessary safety structures at all level crossings which are unmanned on cost sharing basis with the provinces.

Implementation Status

In pursuance of CCI decision held on 23rd January, 2013 and on the basis of latest information received from Railway Headquarters, there are a total of 2,382 unmanned level crossings across the system, out of which 126 are in the Punjab, 935 are in Sindh, 146 are in Khyber Pakhtunkhwa and 9 are in Balochistan. The enclosed statement indicates that the total number of vulnerable unmanned level crossing is presently 404 and the estimated cost of upgrading shall be Rs. 6,868 million. Moreover, the number of vulnerable level crossing is expected to increase rather than decrease on account of public awareness, due to changing traffic patterns and increasing motor vehicles.

Impact

The decision shows keen interest of the Council in resolving important national issues within its constitutionally assigned mandate. The decision also reflects efforts of the Council for bringing back Pakistan Railways on profitable track.’

Here council provides information on unmanned crossings. Ministry of Railways has taken three long years to count the numbers of unmanned crossing. These numbers should have been on the records of ministry in the first place. Their being on record or not being on record is an important issue which CCI should have taken up in order to exercise its supervisory control. But it seems CCI is quite happy on receiving the information finally without debating and discussing nature and quality of information.

Here CCI takes policy decisions about revitalization of railways on a PPP Japan Model which is not discussed before in the annual reports. The second important decision is about health and safety. It is about manning the unmanned crossing which would cost Rs. 6,868 million.

There are two policy decisions on railways finally in this report of 2012-13. But there are many details such as Japan model are not available on these policy decisions too.

CCI does not provide any further information on its work on Railways. It has not published any annual report since 2012- 13.

Therefore, according to information provided by CCI, we have one policy decision on policy formulation and one on policy regulation as far as Railways are concerned since its establishment. CCI does not provide any information about supervision and control regarding Railways. Since, it has not published its annual reports for the last two years; no information is provided by CCI on its performance for the last two years.

Currently, plans have been devised by railway and reforms have been initiated by federal railways minister who include a Scrap Disposal Policy, housing and rent policy, fifty new Railway Engines, staff monitoring, eradication of corruption and irregularities from Railways.

According to a new story ministry Railway has been ` facing annual deficit of Rs. 35 billion and was going to be burdened with Rs 240 million extra expenses due to the POL price increase'.

Pakistan Economic Survey reports that`. Pakistan Railways is enduring the worst crisis since its formation mainly due to locomotive shortages. Passenger and freight services substantially declined during the previous years. This is evident from the Table: 13.2 below that gross earning of Pakistan Railways has declined during the previous years due to over aged infrastructure and rolling stock, increase in fuel prices (high speed diesel), escalation of dollar exchange rate and a subsidized railway fare led to an increase in expenditure for sustained train operations. With the capping of over draft by Government of Pakistan in 2007, the finances required for increased maintenance cost could not be borne by the Railways. Finally, the sharp increase in the salary and pension led to diversion of all the revenue earnings to this obligatory payment at the cost of operational and maintenance requirements. Finance Division has committed to bear the expense of salary and pension thereon along with its impact of increase in future till the crisis is over. Government of Pakistan has allocated 39.566 billion in PSPD for the financial year 2014-15 for the development interventions in Pakistan Railways.

Economic Survey also reports a few achievements of Railways. During 2014-15, 90 km of track was rehabilitated on the Pakistan Railway network besides doubling of 5 km track.

The project for procurement and assembling of 202 passenger coaches has been completed. Total 56 passenger coaches have been added and assembling material for 146 coaches have been received. Out of which 111 passenger coaches have been assembled till April 2015'.

At present 175 locomotives are non-operational and are waiting for major repairs. Following initiatives are under way for rehabilitation of held up locomotives. Rehabilitation of twenty seven held up locomotives (HGMU-30) of 3000 HP is being arranged through PSDP at a cost of Rs. 6284.0 million for which an agreement has been signed with M/S Electromotive Division USA. Out of 27 Locomotives, Ten (10) locomotives have been turned out for service.

Special Repairs of 150 locomotives, to improve their reliability and performance, is also being carried out through PSDP at a cost of Rs.5005.031 million. So far 38 Locomotives rolled out

during 2013-14 and 39 Locomotives have been turned out up to April, 2015. iii. Procurement of 58 locomotives has been approved by ECNEC and contract awarded to M/s Ziyang, China in November, 2012.

So far all 58 locomotives have been arrived in Pakistan. iv. Tender for the Procurement of 55 Locomotives (4000-4500 HP) out of 75 locomotives is at advance stage and will be decided in near future. v. Pilot project for manufacture of 5 Nos. 3000 HP DE Locomotives at Locomotive Factory, Risalpur: T

The contract agreement for manufacture of 05 Nos. 3000 HP DE Locomotives at Locomotive Factory, Risalpur has been signed with M/s CSR Ziyang, China and LC established. So far, 5 Locomotives have been turned out and the project will be completed up to June, 2015'.

Pakistan Railways had a major train accident in June 2015 where 18 died. CCI does not provide any evidence for CCI discussing the safety standards in Railways after that incident because CCI has not met since March 2015.

No information is provided by CCI anywhere when it comes to formulating and regulating these policies, supervising the contracts, deals and transactions and exercising control over all these initiative.

It is shown before in the study that CCI has been touted as an institution bigger than Cabinet itself. It means it has more powers than before the 18th amendment. Increase in its share of power means, it has an increase in its responsibilities too. CCI does not seem to perform these responsibilities on Railways.

CCI seems quite reluctant to exercise its powers and its responsibilities at the present which is not good for its future as a competent institution designed for devolution of power.

So many policy decisions have been taken since 2013 on Railways but CCI does not play any role in these policy decisions.

This refusal not to fulfill its constitutional obligations about the subjects it has control over would make CCI an ineffective institution which is against its constitutional design.

3.3 CCI on CCI

It has been discussed in the study before that council has new powers and responsibilities after the 18th amendment. These new powers are mentioned below.

Prime Minister has to be the chairman council.

The council is constitutionally bound to present and annual report before the parliament.

The council has more subjects under its control as Federal Legislative List has been enlarged from eight to eighteen subjects.

The establishment of CCI has a timeframe now. It is mandatory for the prime minister to constitute CCI within first 30 days after he comes to office.

Chief Ministers could request convening a meeting on an urgent matter.

The establishment of a permanent Secretariat and calling a CCI meeting has been made obligatory.

Council could air its complaints as far as water disputes between federal or provincial governments are concerned.

Council of Common Interest is a subject under Federal legislative List 2 which makes CCI responsible to formulate and regulate the policies on CCI, Supervise CCI and exercise control over it.

We would examine the performance of CCI in the context and its constitutional obligations.

Currently Council is working through the secretariat of Inter- Provincial Coordination ministry which shares information about CCI with public through its website.

CCI has presented three annual reports before parliament and published those reports on IPC website.

CCI has made its rules and procedures which are also published on IPC websites.

CCI has published a few details of its meetings on IPC website which are altogether 96 meetings since 2010.

CCI has not established its separate secretariat.

CCI has not presented its annual reports to Parliament since 2013.

CCI does not keep its constitutional obligation of calling a meeting within every 90 days at least once.

Annual Report 2010- 11

This section is about how CCI has fulfilled its constitutional obligations policy formulation, policy regulation, supervision and exercise of control about itself in the year 2010-11.

According to the report council has approved the rules and procedures of Council of Common Interest throughout year 2010-11.

We could see these rules of procedures on IPC website. That is an important step towards fulfilling CCI's constitutional obligations.

However, CCI does not take useful steps about monitoring and evaluating its own performance.

Furthermore, CCI does not put any efforts towards increasing its resources, establishing its own secretariat or building its capacity about informed choices such as think tanks or research centers.

CCI rules of procedures do not protect the right to information of the citizens guaranteed in the article 19A adequately. Moreover these rules of procedure do not support parliamentary participation into CCI decision making process.

CCI has been deciding about the important issues such as electricity, railways, ports, mines, regulatory authorities and census alongside many other important national and provincial issues.

All these issues are relevant to daily life of citizens which means that decisions of CCI would affect the daily life of every citizen. It means citizens have the right to know about the decision making process about the decisions relevant to their life whereas on the basis of rules and procedure it is tough for even parliamentarians to monitor and evaluate the decision making process of CCI.

The architects of CCI after 18th amendment have been promoting CCI as an exercise in participatory federalism, provincial autonomy and citizen empowerment.

Rules and procedures give too many powers to CCI secretariat bureaucrats and CCI members about choosing the content of summaries and choosing the issues to be discussed. CCI does not provide any information to both public and parliamentarians about its decisions making processes and inner working which makes it difficult for both ordinary citizens and parliamentarians to participate into decision making of CCI.

In addition CCI does not provide any information and guidance towards public consultation process on these important issues.

Due to this lack of information CCI has become an institution for its members and beauracrats who citizens and parliamentarian cannot hold accountable. CCI must provide easy, user-friendly, complete and accurate information to both citizens and parliamentarians about its decision making process. Only the commitment to right to information would strengthen democracy, federalism, provincial autonomy and citizens. The experience of advanced federations such as United State of America shows that access to information leads to better participation and better participation leads to better decisions.

Moreover, it is difficult for parliamentarians to know whether CCI abides by its current rules of procedures.

Annual Report 2011-12

CCI approves the annual report of CCI to be presented before parliament in this year. That is only decision CCI takes about itself. We have no discussion about CCI separate secretariat and other means of CCI capacity building in this report too.

This report did not come on time. 'The CCI is supposed to present its annual reports to both houses of the parliament. However, after the passing of 18th Amendment in April 2010, the first report did not come out in time. On 18 January 2012 Senator Professor Khurshid Ahmed raised the issue in the Senate in the form of a privileged motion. He asked why despite the passage of one year the report on CCI (and also those of National Economic Council, Principles of Policy, and National Finance Commission) was not tabled before the house. It was in response to this move that the reports started coming in. The CCI report for 2010-11 was presented in March 2012. Similarly the report for 2011-12 was tabled in March 2013. Unfortunately, no discussion took place on these reports'.

This delay generates a crisis of not fulfilling constitutional obligation by CCI and parliament which undermines the institutional design of both institutions. Parliamentarians must not forget that negligence to constitutional obligations hurts citizens of country.

CCI took policy decisions on important issues like regulatory authorities, petroleum and security and exchange but parliament does not discuss a single issue in the annual report 2010-11 . It does not monitor or evaluate CCI performance on a single issue.

This situation raises questions like these

Did parliamentarians read CCI report?

Did they understand it?

Are they happy with the information CCI report provided?

Are they interested in the performance of CCI?

Do they follow these issues?

Do they just approve any document on the orders of party whips?

CCI Annual Report 2012- 13

According to this report council seems quite satisfied with the implementation of decisions of CCI. In addition Council approves the annual report 2011-12 for presenting the report before parliament.

Moreover council sets up a committee of bureaucrats in order to improve the performance of CCI. This committee is mandated with examining and scrutinizing the issues enumerated in Federal Legislative List Part 2 before presenting them to CCI. This committee could also recommend the cases for CCI considerations. The committee is also supposed to review the jurisdiction of CCI.

It is obvious that CCI is a bit proactive about itself. It monitors and evaluates its performance, it presents its annual report to the parliament and it sets up a mechanism in order to improve its performance.

Besides, it tries to improve the quality of information by providing more information on the impacts of its decisions.

However, CCI does not inform much about the information, data base and policy choices which lead CCI to make its decisions.

This time parliament also passes a resolution on CCI .It is given below.

CCI replies the urges, recommendations and resolves of Senate with delaying of its annual reports for two long years.

According to records of IPC ministry record meets last time on May 29,2014(seen on 2nd September 2015).

Pakistan Today reported that CCI met on March 15th 2015 over census. Obviously Ministry of IPC does not update CCI meetings.

It is very difficult to follow up CCI performance when CCI does not provide much information on its working.

CCI has met more frequently and taken up more issues than before 18th amendment.

Meetings Before 18th Amendment

1st meeting August 7 – 9, 1975	2nd meeting December 27–28, 1975
3rd meeting December 31, 1976	4th meeting January 12, 1991
5 th meeting March 21, 1991	6th meeting September 16, 1991 - 3
7th meeting September 12, 1993	8th meeting May 29, 1997
9th meeting May 9, 1998	10th meeting December 22, 1998
11th meeting August 6, 2006	Meetings after 18th Amendment
12th meeting July 18, 2010	13th meeting September 6, 2010
14th meeting November 8, 2010	15th meeting February 1, 2011
16th meeting April 28, 2011	17th meeting June 1, 2011
18th meeting August 27, 2011	19th meeting February 9, 2012
20th meeting August 8, 2012	21st meeting November 8, 2012
22nd meeting January 23, 2013	23rd meeting July 23, 2013
24th meeting July 31, 2013	25th meeting February 10, 2014
26th meeting May 29, 2014	

These meeting details show it clearly that CCI is a bit more proactive than before 18th amendment.

This progress is a mighty step forward towards participatory federalism but institutions have constitutional obligations. Their performances should be judged upon the fulfillment of all of their constitutional obligations. The meetings are good but it is all about quality of decisions and quantity of public participation into those decisions. The effects of these policy decisions upon public cannot be brushed aside as CCI is ultimately an institution for public.

3.4 CCI and Census

Governments have viewed census of population as an important policy formulation tool since ancient time. British government of India conducted various censuses of population. After independence Pakistan has also conducted a few censuses of Population. The last population census happened in Pakistan in 1998.

Census is a constitutional obligation and it is mandatory for the federal government to conduct census every ten years but the government has not conducted census of population for the last seventeen years.

After 18th amendment CCI has been responsible for formulating policies, regulation of policies, and supervision and exercise control over institutions relevant to census.

It is important to know what CCI has done to fulfill its constitutional obligations as far as census is concerned through CCI annual reports and other sources.

CCI Annual Report 2010-11

CCI discusses the census as non-agenda item once and as a summery item once in the year 2010-11. While discussing Census as a non-agenda item CCI asks for a briefing by Statistic Division on census. The council also approved a schedule for House Listing and Census of Houses and Population in 2011 with the assistance of army personnel. CCI annual report shows the CCI decision has been implemented but Census did not happen that year. It has not happened even after four years since CCI decided the schedule for census.

Other federations like USA attach great importance to census. According to Penn State news "The census is most definitely important. Our whole representative democracy is based on it," says Gordon De Jong, professor of sociology and demography and senior scientist in Penn State's Population Research Institute. "The census ensures that each community gets the right number of representatives in government." Because representation is based on population, an up-to-date tally is essential.

Census is also important for allocation of resources, health programs and law enforcement. But CCI discusses it only once. It does not provide any policy on it in the year 2010- 11 after the

Eighteenth amendment. There is no evidence of supervision of the institutions relevant to Census by CCI.

CCI Annual Report 2011-12

CCI does discuss Census once in the year 2011- 12. It defers the decision on the briefing from Statistical Division. Census was delayed for twelve years before 18th amendment. After 18th amendment two CCIs have been formed in two national governments but no government has managed to conduct census. That delay still continues after 5 years of new federal legislative list part two.

Absence of census means Pakistan has no reliable record has population record on how Pakistan has changed during last 17 years. This absence of population record affects the policy decisions about division of resources, health and education programs, and housing alongside other aspects of governance. The policy makers keep deciding about policy issues without information and public participation in spite of all the negative consequences people have suffered as a nation.

CCI has been created and reorganized in order to improve the participatory and informative nature of decision making but CCI refuses to break the vicious circle of bad decisions by not fulfilling its constitutional obligations about census and other subjects.

Besides, CCI does not fulfill its constitutional obligations about an important subject under its jurisdiction for another long year.

CCI Annual Report 2012-13

CCI does not discuss census this year. There is no evidence that any CCI member or any bureaucrat working for CCI lose their sleep on the implementation of CCI decision about organizing census as. Absence of Census makes it clear that for last three consecutive years CCI does not take any result oriented steps about its constitutional obligations regarding census.

After this report CCI does not publish any annual report which is another violation of constitutional obligations to the parliament and right to information to the public.

There is no evidence available which shows that CCI has been taking steps to build its capacity to perform its duties on census. Also, Ministry of IPC does not inform us about interprovincial coordination efforts.

However newspapers provide this information that CCI has decided that it is going to conduct 6th population census in March 2016 with the support of armed forces as was done in 1998.

‘It was decided that housing and population censuses would be held at the same time and the cost would be shared by provinces through the divisible pool’.

Again, CCI does not discuss this proposed Census in details. It does not talk about modern technologies like digital maps, internet, telephone interviews and hand held terminals. It does

not cost effective methods of holding a Census. It does not discuss the techniques and methods which could improvise the conducting of Census.

This lack of planning and coordination on behalf of CCI is casting doubts over the possibilities of conducting this census in 2016. According to a news report by Dawn` AsifBajwa, Director General of the Pakistan Bureau of Statistics (PBS) – the government body tasked with carrying out the exercise – confirms that “no funds have been released thus far” for the year-long exercise.

According to same news report` a highly-placed source at the finance ministry in Islamabad says the federal government is debating whether to scrap the census altogether. Instead, the government is weighing the merits of using population data from the Nadra database for planning and future resource distribution, according to the source.

There is billions of Public money involved into Census but the officials report the government has lost interest in holding the census. This loss of interest does not match well with constitutional obligations.

It has been already discussed that CCI does not inform public about details of its decisions on Census but CCI does not work to implement its decisions on Census too as it has not met for a long time.

CCI has been designed for proactive federal and provincial coordination on matters like census but when CCI would not exercise its powers and responsibilities, it would not fulfill its purposes.

3.6 CCI and Regulatory Authorities

CCI is responsible for formulating policies, regulating policies, supervision and exercising control over federal regulatory authorities after 18th amendment like EPZA(Export Processing Zone Authority)NADRA(National Database and Registration Authority) PPR(Public Procurement Regulatory Authority) PTA(Public Telecommunication Authority) National Highway Authority and NEPRA(National Electric Power Regulatory Authority).

These are vast subjects. CCI needs plenty of resources and time to fulfill its constitutional obligations about the federal regulatory authorities. This study attempts to evaluate CCI performance about its constitutional obligations by examining the information CCI provides about its performance on these regulatory authorities.

CCI Annual Report 2010-11

The council sets up an eight member committee comprising federal ministers and provincial nominees in order to examine the working and functioning of NEPRA on its July 2010 meeting. This committee submits its report within a month according to its mandate by CCI.

CCI asked the above mentioned committee to look into working and functioning of NEPRA on its 18th October meeting. In addition CCI asked the Cabinet Division to submit the revised summery.

The council discussed the NEPRA annual report and revised summery once again on its April 2011 meeting.

The council discusses a dispute between federal government and provincial government over interpretation of article 157 about power generation.

Later on CCI decides about the federal regularity authorities in this important decision.

CCI considers the issue of revenues of six federal regulatory authorities and decides that surplus revenues from these authorites would go to Federal Consolidated Fund. However, the debts incurred by these authorities would be picked up federal government. But it withdraws the implementation of its decision for further consideration.

It is obvious from these instances that CCI deliberated over working and functioning of NEPRA a lot without giving any actual policy. We come across the information gap about the content and recommendations of the summeries and committee reports.

As far as other regulatory authorities are concerned, CCI reports mentions NADRA once on the problems on Issuence National IdendityCards.CCI does not discuss other regulatory authorities at all in this year.

All these regulatory authorities are responsile with many facets of regulation such as finances, ethical standards, accountibility, health and safety, management, projects,laws and employment. CCI is basically responsible to formulate policies on such complex and vast issues within these regulatory authorities. CCI has to work hard and meet quite frequently to formulate and regulate these policies for these regualtory authorities.

For example, according to a newsreprt published in the newspaper Express Tribune August 6 2015 that NADRA issued 22000 fake cards in 2014 and 64,000 cards in 2015. CCI is supposed to regulate the policies and suprvisie the performance of NADRA.Theincreae in fake cards is threefold in 2015 but CCI does not do anything to stop this card corruption in these two years because CCI has not given any information to us about its supervisory performance.

CCI Annual Report 2011-12

CCI discussed NEPRA and PEPRRA in the annual report of 2011-12. CCI informs us that Committee under NavidQamer submitted its summmary on workings of NEPRA under the constituion. This particular CCI meeting discussed NEPRA annual report of 2009-10 on 9th Feburary 2010.

Like before CCI provided no information on the proposals on NEPRA workings by NaveedQamarCommittee. There is no policy decision on in the year 211-12. It is old summary and committee game which CCI does not share information about with public.

As far as PEPRA is concerned , a summary is withdrawn by Cabinet Division Secretary.

No information is availab any information on any other regulatory authority in this report. It is difficult to know whether these authorities have been doing their jobs perfectly or CCI does not have time to discuss the issues linked to those authorities due to lack of information.

The annual report does not discuss anything about any meaningful policy formulation and policy regulation, supervision and exercising control over these authorities. Even the ones whose issues have been taken up do not show any progress towards fulfilling the constituional obligations of CCI.

Ministry of IPC does not infrom public about the details of the meeting after annual report 2012-13.

A corruption sandal erupted in OGRA in 2013 where important officials and politicians were accused of corruption in OGRA. According to The Nation Newspaper `The main charges on which the National Accountability Bureau was quizzing the accused and his accomplices (senior officials of OGRA) in the mega corruption scandal included upward revision in the unaccounted for gas (UFG) benchmark from 4.5 per cent to 7 per cent hence causing a loss of around Rs 44 billion to the national exchequer`.

As the news report shows a lot of money is involved in above mentioned scandal but no information is available what CCI has been doing about it. We don't know whether CCI has formulated any policy to eradicate the corruption in OGRA after this scandal.

We have no knowledge of CCI doing anything to stop corruption in any of these authorities in its 2011- 12 reports.

CCI Annual Report 2012-13

The council discussed NEPRA summery once again on the 18th November 2013 meeting. This time it talks about impact of its decision.

Decision

The Council of Common Interests considered the Summary dated September 13, 2012, submitted by Cabinet Division on "Working and Functioning of National Electric Power Regulatory Authority (NEPRA)" and approved Para-2 of the Summary in the form of report submitted by its sub-committee constituted under the Chairmanship of Syed NaveedQamar, Federal Minister, with the directions to the Ministry of Water and Power to expedite the proposed Electricity Act. The Government of Khyber Pakhtunkhwa, however, did not subscribe to the findings so reflected in different annexures particularly Annex-C of the report. The

Council also directed Secretary Water & Power in her capacity as Secretary Cabinet Division to pursue the NEPRA to finalize determination of upfront tariffs for bagasse, solar and coal generations.

Implementation status implemented.

Implemented.

Impact

The decision of the Council provided guidance to NEPRA for determination of upfront tariffs for different resources i.e. bagasse, solar, coal, wind and bio-gas etc. thus promoted exploitation of non-conventional generation facilities. We have a bit of information on the content of summery in these decisions. Finally, we know that NaveedQamar Committee discussed a proposed Electricity Act.

CCI wants to expedite this proposed act. Since, CCI has not published any report after 2013. CCI does not provide any Information on the progress on its performance on NEPRA since that year. However, Council takes up NEPRA upfront Tariff on solar and coal generation in its next meeting in the year. As for the rest of regulatory authorities CCI took a decision to balance the provincial representation in the boards of regulatory authorities.

This is a very positive step towards better representation but it is tough to monitor progress on this issue. CCI has not published any information which could help citizens to follow the implementation of this important decision.

CCI does not discuss other issues of regulatory authorities in this report too. It seems those authorities are working on an auto pilot mechanism where CCI does not need formulating policies, regulating those polices, supervising and exercising control for those regulatory authorities.

The Current NEPRA report has raised the issues of inflated bills. According to a news report' The National Electric Power Regulatory Authority (Neptra) has refused to budge from its stance, insisting power distribution companies have sent inflated bills to consumers and the Ministry of Water and Power cannot be absolved of its responsibility.

"The administrative functions (including the release of consumer bills) were being performed by the chief executive officer and were monitored by the board of directors of the respective distribution company; however, the Ministry of Water and Power cannot shirk its responsibilities," Neptra said.

The regulator highlighted its stance in a reply sent to the Senate following the filing of adjournment motions in the upper house of parliament.

It clarified that observations in a report on the performance of power companies were only related to the Time-of-Use meters, which constituted 3% of total electricity meters installed.

The perception of senators that 70% of consumers were receiving incorrect bills was not based on facts, the regulator said, adding its report pertained to the Time-of-Use meters, which were used only by 3% of consumers.

This meant that whatever had been said in Nepra's annual report did not affect 97% of electricity consumers as their bills were not based on the Time-of-Use meters.

Nepra, in its Annual Report for 2014-15, chastised the Ministry of Water and Power for its performance and electricity shortage. "The managements of government's thermal power plants have deliberately kept the plants closed," it remarked.

According to Nepra, the Time-of-Use meters of 70% consumers were outdated and not timed appropriately and as a result some consumers were billed at off-peak rates and some at peak rates.

Power companies have been installing such meters for the past few years in an apparent bid to benefit the consumers, but the technology has become unreliable in the face of revelations made in the Nepra's report.

The Time-of-Use meters have been provided for both domestic and commercial consumers. Their main feature, as claimed by the authorities, is to encourage the consumers to use minimum electricity during peak hours in order to qualify for a 30% to 50% relief in their bills.

Nepra said its survey team had observed that the connected and running load of most of the consumers under domestic, commercial and industrial B-2 categories was more than the sanctioned load.

However, 'the power distribution companies did not take any step to increase the load, nor did they issue any notices. Transformers were 80% to 100% overloaded, which led to frequent tripping of feeders, it said'.

Public does not know what CCI does anything about inflated bills and responsibilities of relevant institutions whereas those regulatory authorities such as NEPRA come under its jurisdiction .It is right of public to know because in a democratic federation, the source of power is public.

3.7 CCI and Mineral Oil and Natural Gas

Council of common interest is responsible for policy formulation and policy regulation, supervision and exercising control over mineral oil and natural gas, liquids and substances declared by Federal law to be dangerously inflammable;.

CCI Annual Report 2010-11

CCI discusses the tight gas policy once in the year 2010-11. It approves the tight gas exploration and Production policy 2011 subject to further consultation with provinces for further feedback.

It does not provide any information on the content of this policy. It does not provide any link where citizens could find the contents of this policy.

However this policy is in place and Sui Southern Gas Company has been awarded a contract of ` of Rs235 million for construction of 8-inch and 6-inch diameter, 52-km pipeline from Rehman Gas Field which will be integrated in SSGC's system at Naing Valve Assembly on 24-inch diameter Bhit Gas pipeline' in 2013.(dawn,jan 13)

In addition there is news of modifications in this policy in media that CCI is likely to review Tight Gas Policy in order to offer higher prices to companies for exploring trapped tight gas resources But CCI has not met for sometimes and Sindh Chief Minister seeks a CCI meeting to discuss Liquefied Natural Gas. Syed Qaim Ali Shah discusses about invoking the article 6 of constitution (treason) on delays in CCI meetings. This discussion about high treason highlights the importance of CCI.

CCI Annual Report 2011-12

CCI discusses gas and petroleum on its two separate meetings in 2011-12. One decision is about developing infrastructure for import of Liquefied Natural Gas. CCI asks its support team to make it sure whether LNG comes under its jurisdiction. There is no follow up discussion on jurisdiction of CCI on LNG on this issue.

CCI approves the Petroleum Exploration and Production Policy 2012 in principle ` subject to development of consensus on the issues of zoning, royalty, mode of royalty and production bonuses` through a consultation process with representatives of provincial governments.

CCI does not inform public or guide them towards the contents of this petroleum policy. Besides it does not inform us about the outcome of consultation on royalty and other issues with provincial governments.

CCI Annual Report 2012 -13

The council does not follow up the jurisdiction of CCI over LNG in this year. As CCI has not published reports after 2013, citizens don't know whether CCI has decided the jurisdiction issue but LNG has become a contentious issue between federation and Sindh province.

Sindh Chief Minister wants fulfillment of constitutional obligations as far as CCI meetings are concerned. Only three CCI meetings have been held over last two years. He also claims to record the protest over LNG issues by saying ` this subject was covered under Constitution's schedule-II. Under schedule-I, federal subjects were placed. The CCI's subjects were covered under scheduled two and it was the CCI which took decision on them, he said. But it met only on three occasions in the last two years. "We have protested over gas [issue] in the CCI and recorded it before the [federal] minister," dawn

LNG gas negotiations with Qatar are also in trouble. According to a news report ` the federal government has refused to give its stamp of approval to spot purchase of liquefied natural gas (LNG) from Qatar and has also not endorsed the purchases already made`. Sep 9 Dawn.

Furthermore it cause trouble for Oil and Gas Regulatory Authority too which also comes under CCI jurisdiction according to Federal Legislative List part 2.

OGDC 'is now in a critical situation pertaining to the consumer price determination following refusal of the federal government to accord ex-post facto approval to LNG imports from Qatar and its prices'.

Public Procurement Regulatory Authority also comes under CCI jurisdiction and PPRA claims the LNG imports from Qatar are against PPRA laws.

It seems CCI should have dealt with its jurisdiction issue before letting the federal minister negotiate with Qatar and other countries.

Citizens know CCI is responsible for policy formulation and policy regulation, supervising and exercising control over natural gas and federal regulatory authorities. Apparently CCI does not take any steps to resolve the contentions between the institutions which come under its jurisdiction. It is a bit like a family head looking the other way when a full blown domestic quarrel is going on in the house.

The issues around LNG involve public money but public does not feature in this debate because CCI does not inform public about its workings. It talks about its jurisdiction over LNG once in these reports but at the end of road there is a crisis where spot purchases have been done which government does not approve, OGRA is confused about prices and PPRA thinks the purchases are against law. The source of all this trouble is that CCI does not fulfill its constitutional obligations.

The Council of Common Interests considered the Summary dated April 5, 2012, submitted by Ministry of Petroleum and Natural Resources on "Approval of Petroleum (Exploration and Production) Policy 2012" and approved the Policy subject to following conditions /rectifications: i) In accordance with the provisions of the Constitution of Islamic Republic of Pakistan giving joint ownership and equal control to the Federal Government and provinces over mineral oil and natural gas under Article 172 read with Article 154, the benefit of Windfall levy will be shared over and above the base price of US\$40 per barrel and distributed among the Federal Government and the concerned province on 50 : 50 basis.

ii) Bidding process will be open and transparent without any preferential treatment.

Impact

The approval of Petroleum (Exploration & Production) Policy, 2012 has ushered a new era in the development of petroleum and natural resources in the country. This will attract the

investment and the investment projects will create new job opportunities and also lead to economic development.

‘The federal government has backtracked from its early commitment of giving 50 percent of windfall levy on oil and gas to the provinces and quite astonishingly, now it is not ready even to discuss the matter with the provincial representatives.

CCI has claimed to have this decision implemented in 2013 but the news reports from 2015 suggest otherwise.

‘Official sources told The Nation that the Federal government has to pay billions of rupees per year to the provinces under the head of Windfall levy on oil and gas, with Sindh the biggest receiver of Windfall levy on gas, with almost 70 percent share of gas, while KP, with almost 50 percent share in national oil pool, will receive the biggest share in Windfall levy on oil, Punjab and Balochistan will receive their share according to their share of oil and gas production’.

This kind of reports makes it obvious that CCI has not been supervising the implementation of its decisions proactively. It is obvious that it is impossible for CCI to realize its potential for the betterment of country as a bulwark against disintegration without fulfilling its constitutional obligations. Besides, it is illegal not to follow the law.

3 .8 CCI and Electricity

CCI is responsible for policy formulation and policy regulation, supervision and exercising control over institutions relevant to electricity because electricity is in federal legislative list part 2. Besides, in case and electricity, CCI is responsible for dispute resolution and interprovincial coordination.

The current Electricity set up in the country is a consequence of a CCI decision back in 90s.

But the council’s role went through significant changes after 18th amendment in 2010 The affects of those changes could only be highlighter after examination of CCI performance on Federal Legislative List entries such as electricity after the 18th amendment as far as CCI constitutional obligations are concerned.

CCI Annual Report 2010-11

CCI discussed the construction of DiamirBhashaDam in order to build a national consensus on the construction of dam. CCI kept discussing the DiamirBhasha Dam in its next two meetings. CCI does not inform public about the details of DiamirBhasha Dam project. In addition, it does not guide public to the details of the project.

It does not inform public about the outcome of its discussions in the year 2010- 11

Two prime Ministers have held groundbreaking ceremonies for the commencement of the project but according to news reports works has not started on the project. According to an official “If you fail to construct big water reservoir, like Bhasha in the next eight to ten years,

you are going to lose the fertile land of Punjab and Sindh as the farmers will be unable to cultivate water intensive crops such as sugarcane and rice,.

“Land acquisition is a lengthy process and you cannot stop work on the project till the completion of land requisition. Start work on other phases, as the land requisition and associated arrangements will take about five to six years,” he official said adding, “You cannot wait too long for the completion of one phase. A total of 32 villages with a collective population of 25,000 people will be affected due to the construction of the dam.(The Nation June 18th)

CCI deferred the the policy decision on Regulation of Generation, Transmission and Distribution of Electric Power Bill due to absence of submission of report by the NaveedQamer subcommittee report.

The bill for amendment has become an act of parliament but CCI does not update public on this transformation of bill into law. Moreover CCI does not inform public about the amendments it has recommended to the act.

‘ On a summary brought by the Province of Punjab regarding powers of a province to generate electricity, the CCI agreed to include an appropriate amendment in the power policy to bring it in line with the letter & spirit of clause two of Article 157 of the Constitution’

CCI also discussed the privatization of power distribution companies in the year 2010-11.

CCI Annual Report 2011-12

The council discussed the privatization of power entities and decided that chief secretaries of provinces would be members of privatization boards and chief ministers would be members of privatization cabinet committees.

According to news reports in February 2015 government has decided to privatize Faisalabad Power Company and has established a consortium to privatize Islamabad and Lahore power companies. Both of these companies are viewed best performing among power companies. That privatization has not materialized as yet.

The word ‘consumer’ does not feature in the information on CCI decisions on electricity in these two CCI reports. CCI does not happen to discuss load shedding too in these two reports. According to a report ‘Power shortfall on Saturday crosses the 5,500 megawatt (MW) with as much as 12 to 16 hours of unannounced load-shedding in urban and rural areas due to increased pressure on the system’.

The same kind of news reports is present in every year since 18th amendment. For example according to a news report in 2011` Summer 2011 is just starting and electricity load shedding in Pakistan already started to intensify. Power load shedding of 12 hours is already in place in many areas of country, PEPCO claimed that electricity short fall is 2500 Mega Watts (MW) already’.

From these reports it is not difficult to guess CCI policy formulations, policy regulations, subversions and exercising of control over institutions have not made much difference to the performance of electricity sector.

CCI institutional design and constitutional obligations is about improvement of life standards of citizens and better participation of the citizens in national life. These annual reports show clearly that CCI does not provide sufficient and adequate information to the citizens which could lead them to participation into CCI decision making process. CCI does not discuss about the effects of load shedding on the lives of citizens. Whenever an institution does not improve the life of citizens, it needs to improvise upon its performance but after 2013 CCI withdraws further and does not fulfill its constitutional obligations on holding its meetings. Furthermore it does not present its reports to parliament to exacerbate the problems regarding its performance.

CCI Annual Report 2012-13

CCI discussed electricity while discussing NEPRA in this reports which have been discussed before in the study under federal regulatory authorities. This time CCI discussed electricity once in the context of Karachi Electric Supply Company and payments of pending bills in this decision.

Decision

The Council of Common Interests considered the Summary dated November 5, 2012, submitted by Ministry of Water and Power on "Equitable Distribution of Electricity" and while approving recommendations submitted by the committee advised that modalities for withdrawal of 350 megawatts from KESC and financing of oil bill required to be provided to KESC for activating its idle capacity may be worked out. The sale purchase agreement of KESC also needs to be looked into to determine the responsibility of KESC for adding to generation. The same committee may also include Principal Officer, Finance Division and a representative of Ministry of Petroleum and Natural Resources as members. The decision of the committee is implemented forthwith and a progress report be submitted in the next meeting of the CCI.

2. The Council also directed that Federal and Provincial Governments should clear their current electricity bills promptly. If any person or body has any complaints about over billing, it should be settled within a month.

Implementation Status

Implemented.

Impact

Unanimous approval of the recommendations of the committee constituted by the CCI is a vital step towards resolving energy crises in the Country. The decision facilitated Equitable Distribution of Electricity throughout the Country.

The decision about paying the bills by federal and provincial governments was taken in November 8 2012. It was reported in dawn 29 April 2015 that both public and private sector in Sindh do not pay their electricity bills. According to former Water and Power Minister 'Minister for Water and Power Khawaja Asif said in the National Assembly on Tuesday that the government and private consumers in Sindh owed large amounts in unpaid electricity bills and urged the PPP leadership to ask their government in the province to clear power dues of Rs66 billion.

According to Dawn 15, May 2015, current federal minister was still demanding the payment of that bill.

As far as power generation is concerned, KESC reported 'The Karachi Electric Supply Company's (KESC) power generation reduced by 7.92 percent in 2013 and the company purchased 69.2 percent more electricity as compared to 2004-2005. KESC might have done better on power generation in the subsequent years but CCI does not provide any information on its performance in those years.

It is quite obvious currently CCI does not follow the implementation of its decisions.

News reports have so many reports about electricity price increase for the consumers in various ways. According to a report by Dawn on Oct 28 2014 'Days after the government imposed a 30 paise per unit surcharge, the National Electric Power Regulatory Authority (Nepra) allowed on Monday a 53 paise per unit increase in electricity tariff for all distribution companies, except K-Electric'.

There is no information available in these reports and IPC website anything about CCI providing any relief to consumers as it has gone silent since few months. There are many projects on electricity going on currently through China Pakistan Corridor but CCI has not been called to discuss those projects. Electricity is a CCI subject. Its silence on electricity projects of both national and provincial importance is a violation of its constitutional mandate once again.

3.9 Inter Provincial Matters and Coordination

Interprovincial Matters and Coordination is one of the most important features of the institutional design of CCI of strengthening federalism, provincial autonomy and citizen

empowerment. Interprovincial Matters and Coordination is also included as an entry in the Federal legislative List Part Two of the constitution of Pakistan.

Interprovincial Matters and Coordination is an integral part of every aspect of all other entries which have been discussed before in the study. The effective policy formulation, policy regulation, supervision and exercise of control are not possible without effective interprovincial coordination. Thus it is important to for CCI to fulfill its constitutional obligations about Interprovincial Matters and Coordination.

Interprovincial division was made a full-fledged Ministry w.e.f. 3rd November, 2008. Due to 18th Amendment, the functions of the Ministry of IPC have been increased. Necessary amendments have been made in the Rules of Business, 1973.

This ministry is responsible for publication of CCI annual reports alongside other of its responsibilities. It also works as a temporary secretariat of CCI. As far as publication of CCI reports is concerned it has not published CCI annual reports for last three years. It means public has no information on the working of CCI since long. It is obvious that it is tough for public to participate in the decision making of CCI without having any information on its functioning. Besides, it is a violation of both constitutional obligations of CCI, IPC and constitutional rights of public.

CCI has the constitutional obligations of formulating and regulating the policies, supervising and exercising control over Interprovincial Matters and Coordination. It has these obligations about 'All matters related to interprovincial claims and contestation' alongside the entries in the federal legislative list part 2.

CCI has taken important policy decisions on interprovincial matters and coordination. 'For example, in a dispute arising between the government of Punjab and the federation over the interpretation of Article 157 and an amendment in the policy of power generation projects 2002, the former prevailed bringing benefits to other provinces at large when the CCI considered the summary submitted by the government of Punjab and decided in its favor, whereby provinces were given complete authority to develop power projects of any capacity themselves or through the private sector.'

But CCI has a vast mandate about Interprovincial matters and coordination which CCI needs more resources and a great deal of political will to perform its obligations. Its constitutional obligations demand a proactive role from CCI on interprovincial matters but CCI does not take up many important issues such as China Pak Economic corridor.

'China-Pakistan economic corridor (CPEC) is a mega project of USD 45+ billion taking the bilateral relationship between Pakistan and China to new heights. The project is the beginning of a journey of prosperity of Pakistan and China's Xinjiang. The economic corridor is about 3000 Kilometers long consisting of highways, railways and pipelines that will connect China's Xinjiang province to rest of the world through Pakistan's Gwadar port'.

This project if materialized would affect every province in Pakistan. It is about some subjects like electricity, gas pipelines, port and railways, interprovincial coordination which are under CCI jurisdiction. So far this project has not been discussed once in CCI.

There are demands by provinces to discuss this huge project in CCI. The chief minister of KPK have said 'We have lost trust in the federal government and now they need to bring the issue to the parliament and the Council of Common Interest

They are the constitutional bodies that should decide the fate of the future of the CPEC projects'. With such reservations from the provinces, it is better to call a CCI meeting for both federations and provinces but it has been more than a year since last CCI meeting.

The constitutional obligations relevant to interprovincial matters and coordination demand more CCI meetings but CCI is meeting less. And the less it would meet; the more it would violate its constitutional obligations on interprovincial matters and coordination.

As a matter of fact interprovincial coordination is heart and life of CCI. Not calling CCI meetings is a failure of interprovincial coordination by both federal and provincial governments. It has been mentioned in the study that on issues of LNG, electricity, CPEC, CCI, regulatory Authorities, security, jurisdiction and census, all parties have discussed the importance of CCI meeting in order to develop a consensus on these contentious issues but CCI meeting has exceeded its constitutional time frame of 90 days.

The issues around electricity like privatization, new projects and consumer protection could not be sorted out without interprovincial coordination. CCI is the most import provincial coordination mechanism. It needs interprovincial coordination to fulfill its constitutional obligations such as formulating and regulating policies, exercising control, and supervision. For all these obligations CCI needs a robust interprovincial coordination.

Recommendations

Parliament must demand the publication of pending annual reports as soon as possible. Moreover, Parliament must look into the reasons and cause for the delays in publication of annual reports.

Council of the Common interest must make it sure that pending annual reports are published and presented before parliament.

Civil society and media must take up the issue of publication of CCI annual reports and make it sure that both parliament and CCI fulfill their constitutional obligations about CCI annual reports.

CCI must start a public consultation process before making policy decisions in order to ensure public participation into their decisions.

CCI must translate its annual reports into Urdu and regional languages in order to inform people adequately and accurately about its workings.

CCI must give detailed information about its policy making process. For example deciding about health and safety issues involves research, consultation, facts and figures and legal framework alongside many other factors involved. The more informed parliamentarians and citizens would be on the issues, the more informed feedback and recommendations they could provide for an informed choice to CCI for making the decision.

The council should have its own Secretariat as envisaged by the constitution. Besides, it should have a support of a research centre. Its obligations are too vast and to fulfill those obligations CCI needs adequate resources.

CCI should launch an awareness campaign about its constitutional obligations, institutional design and invite citizens participation into performance of relevant institutions to federal legislative list part 2.

CCI should meet frequently in order to perform its responsibilities better because it has jurisdiction over a great number of subjects and institutions which means it needs to discuss issues relevant to these subjects' details.

CCI has not discussed a few important subjects such as major ports and legal and medical professions since the passage of 18th amendment. This does not mean everything is fine with those subjects. CCI should work on its capacity building and take up all these subjects which come under its jurisdiction.

CCI should invite media and civil society into CCI decision making process in order to have better participation through feedback, suggestions and recommendations.

CCI decides about the issues that involve public money. CCI must provide information to the citizens about the financial aspects of its decisions in order to make it sure that citizens could know the details about how their money is being spent.

CCI needs to participate proactively in the workings of these authorities according to its institutional design and constitutional mandate.

Media, civil society, public and parliament need to realize the importance of institutional design of CCI. All of them must raise their voices and demand their right to information.

Lawyers' community must take up the CCI performance issues to the court in order to make sure that such an important institution functions properly according to its constitutional mandate.

CCI must publish its pending and future reports in Urdu according to recent Supreme Court Judgment. This would give an opportunity to majority of population to participate into CCI

working through monitoring and evaluating of CCI performance, CCI possibilities and CCI shortcomings.

CCI must resolve its jurisdictions issue and build a consensus around its jurisdiction issues with provinces.

CCI must hold its meetings regularly because these meetings give members an opportunity to increase coordination between federal and provincial governments which necessary for better decision making.

CCI must discuss the electricity projects mentioned in China Pak Corridor detail in order to formulate coordinated policies on electricity. By neglecting its constitutional obligations about a subject under its jurisdictions, it would lose its constitutional vitality which is not good for provincial autonomy and citizen empowerment.

CCI should take up every aspect of electricity like health and safety, billing, capacity building, supervision of functioning of institutions alongside many other issues relevant to electricity.

CCI should inform people about the details of its policy decisions and decision making process because these policies are financed by public money and people are consumers of this vital service. They pay the costs in both capacities as tax payers and as consumers. Their absence in policy formulation has not improved the performance of electricity sector. Perhaps, their participation would improve the performance of electricity sector. Besides, participation is the promise of CCI institutional design. And like other constitutional bodies, it is responsible to public.

Conclusion

According to findings of this study CCI does not fulfill its constitutional obligations of policy formulation and regulation about the subjects in the federal legislative list part two as mandated in the constitution. Besides, it does not supervise and exercise control over the relevant institutions to the subjects this study has taken up.

On right to information obligations, CCI does not inform and educate both public and public representatives accurately, completely and easily. It gives short, confusing and incomplete information through its annual reports which does not guide citizens about its policy options, policy decisions factors and policy decision outcomes and the implementation of those policies. This kind of information basically discourages citizens from participating in the decision making which is harmful to its constitutional design of participatory federalism through citizen empowerment.

It does not give useful and meaningful information about policy consultation or supervision of institution process. It has stopped presenting its annual reports to parliament. Besides it does not publish those reports for public information.

In fact it has moved from incomplete and inadequate information to no information which is a violation of the constitution.

It has decided to conduct a census since 2011. It refreshed its resolve for census in 2014 but nation is still waiting for that census. Government officials have been discussing that nation no longer needs census anymore. Parliament does not hold CCI accountable on account of Census while CCI have stopped meeting at all violating another important constitutional obligations which harms its constitutional design.

CCI has not created a separate secretariat for itself which is a formidable obstruction in fulfilling CCI constitutional obligation. CCI could not function properly without its own information and research support. It also does not reach out to public in order to inform and educate people about its constitutional obligations. A democracy without citizen participation is no democracy and this lack of citizen participation discredits CCI.

CCI does not cover its subject thoroughly with details. It just discusses only a few issues about the subjects under its jurisdiction. On regulatory authorities, CCI discusses NEPRA due to electricity problems but it does not discuss other regulatory authorities at all like EPZA. We have seen in the case of liquefied case, there is a dispute going on about legality of transaction about PPRA and OGRA but CCI is silent about its jurisdiction.

CCI has been formulating policies on generation and transmission of electricity since 2010 according CCI annual reports but people keep suffering long hours of load shedding in 2015. China Pak Economic Corridor has been viewed as a better future for electricity generation and transmission but CCI has not met to discuss this important project. The ports are also linked to this important project but CCI has not discussed the ports. Major Ports do come under CCI jurisdiction. It is difficult to assess how CCI is going to improve the performances of the institutions relevant to the subjects under its jurisdictions without discussing them.

Policy Recommendations

1. CCI must fulfill its constitutional obligations proactively if it intends to work as a constitutional body for participatory federalism, provincial autonomy and citizen empowerment.
2. CCI must inform and educate citizens and parliament accurately and adequately about its workings in order to open up possibilities for public participation. The more it would work an inclusive way; it would increase its possibilities for public well-being.
3. CCI must establish its own secretariat in order to make its working better about its constitutional obligations including interprovincial coordination and dispute resolution. It must establish its own research centre too in order to build its capacities for fulfillment of its constitutional obligations.

4. Parliament must monitor and evaluate the performance of CCI proactively and competently in order to make sure that CCI fulfills its constitutional obligations.

5. CCI must meet frequently and regularly in order to take up the issues relevant to its constitutional obligations.

The future of the council of common interest depends upon its performance about its constitutional obligations. Probably, the future of federation, provincial autonomy and citizen empowerment also depends upon constitutional institutions fulfilling their constitutional obligations.

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Annexure

(Dear Sir, You have all that material on you which you could insert here).