

Discuss the Federal structure of 1973 constitution of Pakistan after the 18th Amendment. Why criticism on 18th Amendment started recently.

Introduction:

The military takeovers by General Zia-ul-Haq and General Pervez Musharraf respectively resulted in to a modified constⁿ federal structure of the constitution of Pakistan 1973.

In 2006, the two parties in exile, Pakistan Muslim League Nawaz and Pakistan Peoples Party signed ^{the} charter of Democracy. They pledged to do away with the changes introduced by dictators in the constitution. So, when the democratic election government was established after 2008 election. 18th Amendment was passed. It was assented by president on April, 19, 2010.

The Federal Structure of 1973 Constitution After 18th Amendment:

The 18th Amendment resulted in to more autonomy in financial and political terms by following provisions:

- 1) More Freedom for Provinces in Legislation by abolition of concurrent list appended to schedule 4 of the 1973 constitution.

The concurrent list contained 47 subjects. Both provinces and federal legislature could perform legislation on these 47 subjects. However, after the abolition 43 of the subjects were transferred to provinces. Thus, resulting in more autonomy for provinces, considering that as per Article 143 Federal laws had precedence over provincial laws.

- 2) Minimizing Federal Government's Interference with Provincial matters by withdrawal of governor's power to dissolve assembly under article 112

In case of altercation between the Federal government and provincial Governments, the representative of federal government had the power to dissolve provincial assembly. Thus, removing chief ministers from power.

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3) Number of provisions providing financial empowerment and autonomy

Many provisions were made to address the grievances of provinces.

a) Prohibition on reducing the provincial share decided in later NFC Award 160(3A)

According to this share provision governments get 57.5% from divisible pool as per 7th NFC. That share cannot be reduced.

b) Joint ownership of Natural Resources
172 Article

This provision ensures equal share of both the provinces and the federation.

c) Provinces allowed to collect sales tax on services

As per this provision, provinces were allowed to collect tax on service to increase their ^{easing} economy.

4) Provisions to improve the relationship between provinces and federation.

- Following are some of such provisions

a) Addressing provincial concerns about the names of provinces

Name of NWFP was changed to Khyber-Pakhtunkhwa by amending Article 1. Similarly spellings of Balochistan and Sindh were corrected.

b) Council of Common Interests

Council is headed by Prime Minister. Prime ministers, chief ministers from provinces are also members of this council. Its function is to resolve issues related to distribution of resources.

Criticism on 18th Amendment

Following are the main concerns regarding 18th amendment

1) Reduced Fiscal space for Federal Government

Since to maintain defence, and to run financial and constitutional institutions hefty amount of money is required. 42.5% share is not enough, when debt servicing is also the responsibility of Federation. 18th Amendment does not allow to increase the share.

2) Inability of Provinces to perform well in the devolved subjects

For example drug regulation was given to provinces, but provinces later surrendered this subject to Federal government due to their incapability.

3) Hindrance in the way of single national curriculum.

When the erstwhile government of former prime minister Iqbal Khan tried to implement single national curriculum, Sindh government of Pakistan People's Party objected due to 18th amendment which provides for the provinces to decide on this issue.

ii) Different standards in different provinces

It can result in different provinces following different standards. The best example is the curriculum of education.

iii) Provinces have failed to meet tax collection goals

Provinces were allowed to collect ^{sales} taxes on resources after 18th amendment. However they have made negligible amendment progress in this regard.

*) Failure of Provinces to Establish Sound Local Government Systems under Article 140A

The ~~at~~ Article 140A makes the provincial governments responsible for devolution of power at grass root level, but they have failed miserably. For instance, "there is no elected functional local government in Punjab right now."

Conclusion.

One cannot refute the fact that 18th Amendment has revived 1973 constitution in its true form and spirit. Which has led to the strengthening of Federation. However, inefficiency, poor governance and lack of resources have made some of its provisions ineffective. Now is the time to deliberate on those provision and address the issues.