

Pakistan Affairs

(20 Marks)

Question Discuss the Federal structure of 1973 Constitution of Pakistan after 18th Amendment - why criticism on 18th Amendment started Recently? (CSS-2022)

Introduction:

The 18th Amendment to the Constitution of Pakistan Passed on April 8, 2010 with 292/342 members of NA in Favou by President Asif Ali Zardai is such a historic amendment that introduced changes to about 102/280 Articles which is 36% of the Constitution -

18th amendment redefined the Parliament - Judiciary Relationship by Proposing parliamentary oversight on the appointment of judges in the Supreme and high court. Secondly it restored the parliamentary character of the Constitution by undoing several key changes made by military dictators on important matters like the power of the President. It also devolved several important functions to provide provincial Governments by

abolishing the Concurrent Legislative List in the Constitution and amending the federal Legislative List. In this way it became most comprehensive Amendment.

Federal Structure of 1973 Constitution after 18th Amendment:

The 18th Amendment was the biggest constitutional exercise in the history of Pakistan since the framing of the Supreme law of the land in 1973. It impacted almost one-third of the Constitution of Pakistan. Although the 18th Amendment dealt with nine broad areas of Pakistan's Constitutional arrangement, provincial Autonomy was the centerpiece of the legislation.

It successfully abolished the concurrent Legislative List, transfer most of the subjects in provincial domain. Some other aspects are there:

Strengthening of the Parliamentary System of Pakistan:

The role of the prime minister was enhanced by revoking Article 58(2)B and handing over the auth-

osity back to him. The president's power to appoint the governors was also altered and the governments were to be made by the president on the advice of the prime minister only.

Increased Role of Senate:

The role of the was also enhanced and 23 Senators were to be elected from each province. Hence, to ensure equal representation; the seat distribution for each province was made as follows:

- 14 General seats
- 4 reserved for ulema or technocrat
- 4 reserved for women
- 1 for non-Muslims or Minorities.

Curbing the Powers of President:

Article 89 ensured that ordinances cannot be issued in the absence of the senate or NA. 18th Amendment increased parliamentary checks by contribution in appointments of judges and members of ECP. President Banned from declaring emergency.

Administrative Relations between Centre and Provinces:

The 18th Amendment revised Article 144 of the Constitution and Provincial assemblies were granted the right to repeal or amend any legislation crafted by the parliament for one or more provinces, on matters not mentioned in Federal Legislative list.

Granted Provincial Autonomy:

18th Amendment granted autonomy to the provinces in this way, The share of a province in Any Award of National Finance Commission (NFC) would not be less than the share of that Province in the Previous award (Article 160), The net proceeds of Federal excise duty on oil or natural gas and royalty collected by the Federal government on natural gas would be paid to the province in which well-head of oil or natural gas are situated. (Article 161). (Although the ground reality is different).

Devolution of Authority :

Revision of Article 140 (A) ensured the devolution of authority and a step towards good governance. Each province was asked to create a local government system. The administrative, Political and financial responsibilities were then transferred to the elected representative of the local government.

Enhanced the Role of the Council of Common Interests:

Article 157 (3) which stated that the CCI will resolve the discords and conflicts of Power-sharing between federation and provinces.

According to amended Article 153 (2), the prime minister shall be the head of CCI and the members will include the chief ministers of the Provinces and three members from the federal government nominated by the head.

Issuance of NEC award --- Divisible Pool - distribute net proceed:

18th Amendment increased the Provincial share in the Federal Divisible Pool from 47.5% to 57.5%.

Indicators	Weight	Punjab	Sindh	KPK	Balo-chistan
Population share	82.0	57.36	23.71	13.82	5.11
Poverty/Backward	10.3	23.16	23.41	27.82	25.61
Revenue Generation	5.0	44.0	50.0	5.0	1.0
Inverse Population density	2.7	4.34	7.21	6.54	81.92
Total share	100	57.74	24.55	14.62	9.09

Criticism on 18th Amendment:

Reduction in Federal Revenue Generation:

Article 160(3)A of Constitution of Pakistan after 18th amendment reduce the Federal revenue generation left the Centre with considerably low budget only 42% which was 57% before it-

Absence of Devolution of Power to Local Government institutions:

As Devolution is an important factor of Federalism or good governance but there is an absence of devo-

lution of power to the grassroot level in 18th Amendment-

Lack of Centralized Police:

Due to 18th amendment policing was now totally a provincial matter and there is no single police chief in Pakistan. Dua Zahra Case is also a recent example of a flaw in policing caused by 18th amendment-

Single National Curriculum:

18th amendment abolished the concurrent list and handing over almost 47 subjects to provinces, Education department was given to provinces and therefore standard of education in different provinces create disparity between the citizens of various provinces.

Single Health Policy:

As the education department is given to the province, Health Sector also a provincial subject and it is neglected in provinces like Sindh and Balochistan and people of different provinces faced discrimination in Health Sector-

Other Controversial Articles of 18th Amendment :

Besides the above-mentioned criticized articles, three more articles are usually the subject of Critique. These articles include 24(A) on the right to education, Article 140(A) on the Local Government system and Article 153 on the CCI. These articles are very admirable but despairingly no proper way is suggested to implement these provisions.

Conclusion :

18th Amendment was the most comprehensive amendment since the adoption of Constitution of Pakistan but there are some flaws in it which needs to Review.