

Discuss federal structure of 1973 constitution of Pakistan after 18th Amendment? Why criticism of 18th Amendment started recently? (2022)

1) Describe issues in the higher educational system vis via 18th Amendment of Pakistan? (2018)

Federal Structure of 1973 Constitution

- Constitution:

According to Aristotle:
"constitution" is the life style that a state chooses for themselves."

According to Austin:

"Constitution is the whole body of fundamental rules written or unwritten and extra legal according to which a state or other organization is acknowledge to be govern."

Constitution can be written, unwritten, rigid or flexible constitution.

The frame work of constitution contains

- legislature branch
- Executive branch
- Judiciary branch.

Federal Structure of government:

already done in other notes.

18th Constitutional Amendment:

History:

An Amendment is a modification or alteration proposed to be made in a bill on its passage or enacted.

ilitary rulers with their interventions in their political affairs of the country had distorted the Parliamentary system. Ayub Khan abrogated the Parliamentary system. Ayub Khan Abrogated 1956 constitution and gave his own in 1962 after 4 years of martial law. Ayub acquired massive executive authority by the 1962 constitution which had established presidential system on US pattern. The presidential system introduced in 1962 constitution. Ayub Khan had to step down and give powers to Gen Yahya Khan. He issued the legal framework order which paved the way for country's distinction. Zulfikar Ali Bhutto ascended them in 1971 and had won 1970 election. he presented 1973 constitution which was accepted by all parties, and remained in operation uptill now. General Zia-ul-haq overthrew Z.A Bhutto and introduced Amendments in the constitution. he introduced 8th Constitutional Amendment, which altogether defaced the constitution.

Then G. pervaiz Musharraf further distorted the constitution by introducing several amendments / by which he acquired the massive authority to rule the country - He dismissed Nawaz Sharif in oct 1999. and accumulated all powers in his wing.

Due to so many amendments the constitution of 1973 had lost his main objective so the government appointed the parliamentary constitutional reforms committee which took 9 months to produce a consensus document containing draft for the 18th amendment. The historic consensus on the draft 18th Amendment was achieved on 30th March 2010 by over coming over all contentious issues ranging from renaming of NWFP to the appointment of Judges of the Supreme Court.

Main features of 18th constitutional Amendment Draft Bill:

- 1- President's power to dissolve the Assembly on his own under article 58/2 (b) has been withdrawn.
- 2- The name of NWFP will be changed and renamed as Khyber Pakhtunkhwa.
- 3- A proper system to appoint members of the superior judiciary will be proposed.
- 4- Concurrent list to be abolished to give more autonomy to the provinces.
- 5- Chief election commissioner to be appointed in consultation with the leader of the opposition.
- 6- Islamabad High court to be revived.
 - Its also called miniconstitution after 1973 as one of the biggest change in constitution
 - Presented in national Assembly on 7th April 2010
 - introduced in senate on 12th April 2010.
 - The most innovative change was about the appointment of the judges of supreme court and high court that has neutralized the chief Justice acquired powers to make the recommendation building on the president the new procedure of the appointment of judges of superior judiciary as suggested in 18th amendment assigned the powers to a judicial commission of 7 people headed by the chief Justice.
 - The 18th amendment also seeks it clear to make (Article 243) that it will be now federal government which will have complete control and command of armed forces.
 - This amendment also makes it clear that there will be no presidential rule. Now the authority

select forces chiefs and provincial governors will
rest with the P.M also the chief election commissioner
will be selected by prime minister.

Federal structure of 1973 constitution of Pakistan After 18th Amendment:

Introduction:

- federalism is a system of government where sovereignty is shared (at equal peculiarity) between a central and its federating units.
- presently 25 countries are having federal form of government including Pakistan. All these 25 states have at least possess a constitutional structure in their politics which differs from one state to another. The concentration of power in the center has been remained a federal dilemma under all constitutional parts of Pak including the constitution of 1973. The constitutional powers to civil institution and provinces did not utilized in proper means.

In May 2006, the key political elites from PPP and PML (N) signed a charter of democracy to oblige the process of decentralized system of federalism on the principles of balanced structure of governance in Pakistan. (Friday Times, May 16 2006).

The CoD is considered the unique political part the two parties with the existing which has fulfilled the constitutional promises until political parties joined with one another to find out the constitutional method to approach these demands.

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• After span of 2 years since 2008 general election 18th amendment was unanimously promulgated to craft the balanced structure of Pakistan.

The significant features of amendment are describe as under:

- Concurrent list was abolished and more institutional space was given to the provinces.
- The constitutional monarchy of federal government was revised with the decentralized governance by introducing the local structure at grassroot level.
- The center-peripheral paradigm was created on the institutional principles.
- The council of common interest is now regularized in more institutional way.
- The principle of economic decentralization which was discovered under 7th NFE award implemented under 18th amendment.

Various aspects/effects of 18th amendment on federalism
This amendment precisely has reconstructed the previous system and federalized it in the new description of balanced powers federalism which is compatible with US federal amendment.

① Constitutional Aspect:

The provision of constitutional autonomy to the province was kept under the jaws of a federal government from a very beginning but after 18th amendment as the political elites from political parties finally decided to loose the centralized rule by pacing more powers to provinces as the regime of new social construct to replace the previous structure of centralized federal model.

② Center-periphery Aspect:

The post 18th amendment period in Pakistan illustrates the decentralized tendency in a relationship b/w center and province.

2 significant developments in this concern are very important

The abolition of the concurrent list

The reformation and reconstruction of council common interest.

③ Administrative Aspect:

Pak is in the tendency of decentralization after the adaptation of 18th amendment. Now the administrative hierarchy is more centralized.

④ Economic Aspect:

After the passage of 7th NFC award economic decentralization in Pak is transferred to center to the province in the broader spectrum unlike the previous centralized economic tendencies.

The share of province is 7.5% and central 42.5% which is balanced.

⑤ Political Aspect:

Role of political parties has also been ↑ in Pakistan after 18th amendment. The political trend in Pakistan are personalized while the traditional kinship is stronger than the political forces (Liven 2011, p. 255).

The 18th constitutional amendment has empowered the subregional governments on constitutional, economic, political and administrative aspects.

Conclusion,

We conclude that the State of Pak has long period of transitional System of governance overtly dominated with strong roots of patronage when the political parties were remained weak. The evident process of centralization in the constitutional development and suspension of the democratic regimes are the 2 features for the underdevelopment of federalism in the institutional paradigm - but the post 18th amendment is gradually increasing the institutionalized, liberated, decentralized, co-ordinated and consensus orientated federalism in Pakistan.

The 18th amendment was indeed the instrumental in restoring the democracy and providing structure to system of governance in Pakistan.