

Q

Describe the federal structure of 1973 constitution of Pakistan after 18th Amendment. Why criticism on 18th Amendment started recently?

Answer 1-

Introduction

"1973 constitution is the rigid constitution of Pakistan."

(- Reza Rishmi)

Pakistan is a federation. In fact, constitutional framework took time, but, 1973 constitution is a skeleton body. Moreover, 18th amendment put soul in 1973 constitution. However, certain criticisms are started on the 18th amendments.

2-

1973 constitution: an overview

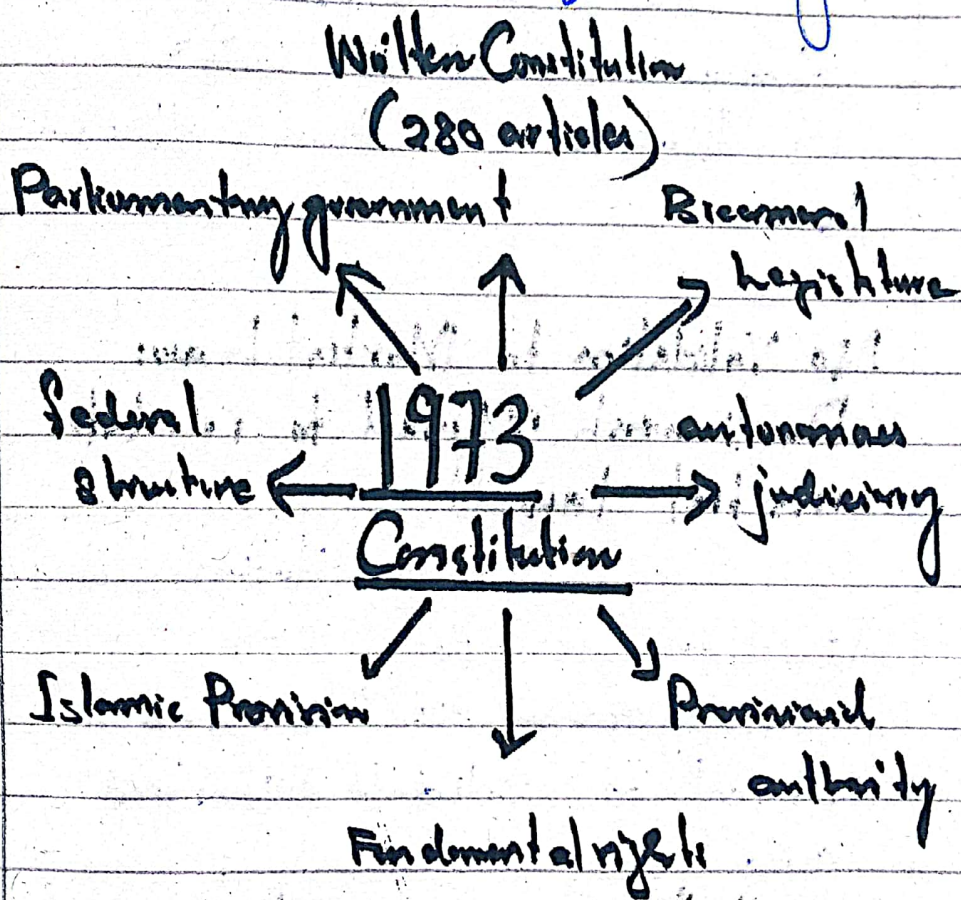
"The 1973 constitution

is a rigid body of Pakistan."

(- Faisal Bari)



1973 constitution was given by Zulfikar Ali Bhutto on August 14, 1973. In fact, it was a written constitution with certain favourable features



(- Constitutional history of Pakistan)

3- Federal Structure of 1973 constitution: the 18th amendment.

The 18th Amendment

changed the federal  
nature of 1973  
constitution.

(- Raza Rabbani)

The 18th amendment  
changed the nature of 1973  
constitution in the following  
way:

9) No Validation to Martial Law:  
Parliament refused to revalidate  
martial law.

1973 constitution got  
rigidity by the 18th  
amendment as parliament  
refused to validate Martial  
law.

" Any body against  
constitution will  
be rebel and

high treason case

will be dealt."

(- Article: 06, 1973  
constitution)



Therefore, 18th amendment  
abrogated Martial Law authority.

b)

The 18th Amendment restricted  
use of emergency  
will be followed after  
consultation with parliament and  
provincial Assembly.

" Use of emergency in  
federal territory  
will be approved  
by the national  
assembly."  
(- Article 232)

- and -

" Emergency in provinces  
will be done after  
approval of the  
provincial assembly."  
(Article = 234)

Therefore, emergency provisions  
were restricted.

c)

Enhanced supremacy of parliament



Moreover, supremacy of parliament was enhanced.

"As per constitutionally, article 58(2)(b) - was suspended to enhance supremacy of parliament."

(- Roza Rabbani)

Therefore, parliament supremacy was ensured.

d) Provincial Autonomy granted in the 18th amendment of 1973 constitution.

Further, provincial autonomy was granted. In fact, powers were given to provinces to deal provincial matters.

"18th Amendment suspended concurrent list and 86 subjects were given to provinces."

(- Roza Rabbani)



Therefore provincial autonomy was increased.

e) Equal Share of Resources: the National Finance Commission (NFC)

"Public Fund will be equally divided between provinces on certain policies."

(- Article - 160)

Furthermore, 18th amendment gave a formula of resource share. According to article 160- NFC share will be divided equally. Therefore, harmony led to provinces.

f) The 18th Amendment: Paved way for independence of judiciary

"Judiciary got sovereignty away from politicians."

(- Makele bodhi)

Moreover, 18th amendment paved way for independence of judiciary. Judiciary Commission of nine impartial members was granted. Hence, judiciary got sovereignty in its process.

g) The 18th amendment: Enhancement of role of Senate.

"Senate got role in affairs of the national assembly."

(-Raz-e-Rashidi)

Moreover, role of senate was enhanced. In fact, approval of senate on bill was regarded mandatory except budget.

"According to article

173 - Senate on advice on budgeting bill."

(- Article 173)



Therefore, role of senate was increased.

How 18th amendment changed federal structure of 1973 constitution?

No space for Martial law

Restriction to emergency

Supremacy of parliament

Provincial Autonomy

Reserve Share

Supremacy of Judiciary

Role of Senate

4- Criticism on 18th Amendment

Criticism on 18th amendment has begun recently



as follows:

a) Abuse of centralized authority of provinces.

The 18th Amendment paved way for devolution of powers.

(Ritza Kiebhini)

The 18th amendment - shared powers with provinces. In fact, provinces autonomy was agreed.

Centralized authority led to center

provinces disharmony.

(Faisal Bari)

Unfortunately, due to politicizing, abuse of provincial autonomy is prevalent. Hence, 18th amendment is criticized.

b) Weak local government: consequences of the 18th amendment  
Moreover, the 18th

gave power to provinces to  
rule provincial territory.  
Unfortunately lack of coordination  
led to weak local government.

"provincial autonomy  
led flows in policy  
making to strengthen  
local departments"  
(M. A. Hashmi)

Therefore, the 18th amendment  
is criticized on the functioning  
of local government.

5.

### Conclusion

• 1973 constitution is the  
first ever brick-home  
of Pakistan.

(Shri Hashmi)

1973 constitution is rigid  
and federal character based  
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of federal character of 1973  
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