

Q#2:

Explain the spirit of federalism as enshrined in the 1973 constitution. What measures are required for the smooth functioning of center provinces?

1. Introduction

"Federalism is a compromise between different political units, each with distinct political identities, to come together under a larger unit while retaining autonomy over specific domains of governance."
US Political Scientist

Pakistan is a land comprising of diverse group of people having different ethnicities, languages and castes. Having such diversity and having gone through the debacle of 1971, it was a prevailing sense to address the grievances of people. Although, all the 3 constitutions offered federal form of government, there was a focus put on this arena in 1973 constitution; Bicameral legislature was introduced, mechanism was set to distribute seats among center and provinces, and distribution of power was defined. However, despite all

these provisions among the constitutions, center-province relations are under strain. To make the functioning of center and provinces smooth, the mechanism is already available in the constitution like council of common interest, national finance commission and supreme court. It is the due need to address the issues according to the provisions in the constitution.

2. Spirit of Federalism as Enshrined in the 1973 Constitution

Constitution of 1973 has inscribed the federalism through various provisions. The inclusion of the provinces in the specific domains of governance was ensured.

i) Bicameral legislature ~ upper house for equal representation of provinces

The constitution of 1973 provides bicameral legislature. There are two houses, where national assembly is the lower house and senate is the upper house. Senate ensures the inclusion of all provinces through equal representation.

ii) Distribution of powers between center and provinces

Power is distributed between the center and the provinces. All the residuary subjects were vested in the provinces. Through the 18th amendment, the federal legislative list's subjects are under the jurisdiction of federal government.

iii) National finance commission ~ distribution of tax revenues among center and provinces

Federation and provinces will have the tax distribution with a formula defined by national finance commission so as to address the grievances of provinces.

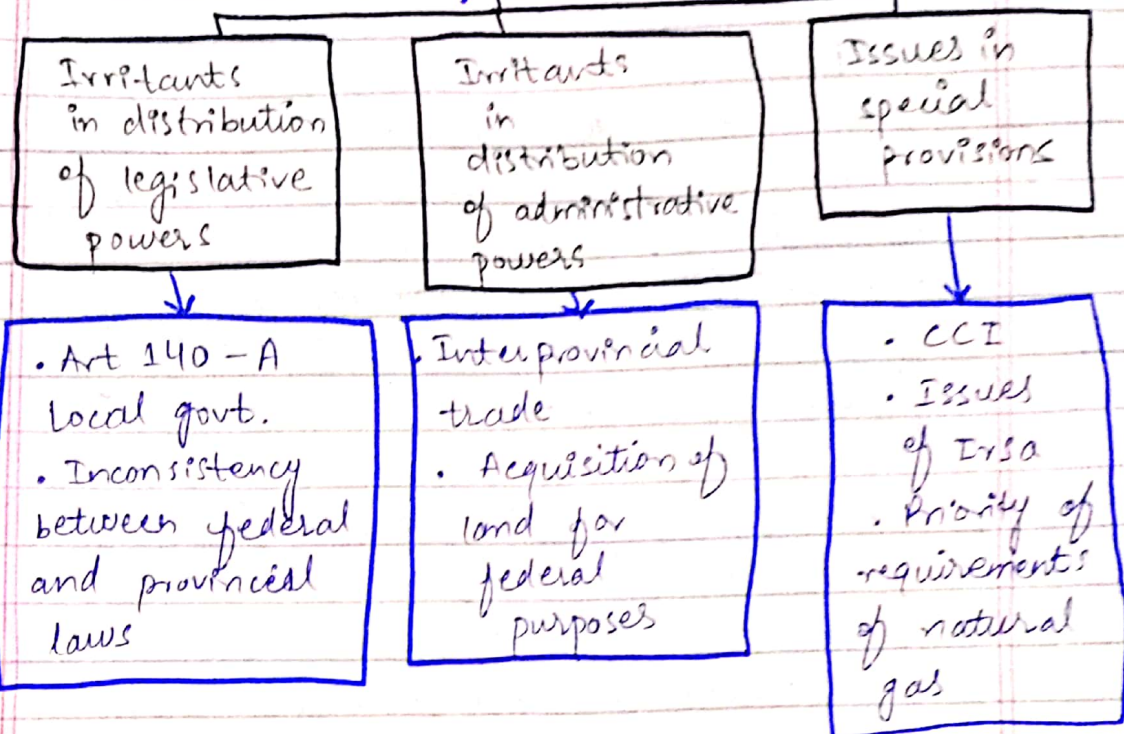
iv) Council of Common Interest ~ a body to resolve conflict among center and provinces

The primary function of CCI is to promote cordial relations among center and provinces. It has PM, CM's and the nominated members as a team. CCI is the mechanism to resolve issues.

3. Issues and Irritants of Center Province Relations

There are certain issues and irritants which need to be addressed.

Irritants of Center Provinces



4. Measures Required for Smooth Functioning of Center - Province Relations

As per the constitution of Pakistan, the mechanism is available to resolve conflict between center and the provinces.

a) Role of Supreme court ~ a supreme body to interpret laws

Issues in the distribution of legislative powers can be addressed through supreme court. The inconsistencies between the federal and provincial laws specifically on residuary powers with provinces

can be interpreted through the supreme body of justice. Furthermore the issue of extent of federal and provincial laws to provinces need interpretation. A precedent must be set to address the issues to significant level.

b) Role of CCI (Art 153) to address administrative and issues of special provisions

CCI must meet annually and resolve the administrative and special provisions issues. The issues of inter provincial trade and acquisition of land for federal purposes must be resolved through comprehensive modes. Furthermore, the issues of IRSA, hydro-electric or thermal power installations in provinces must also be addressed.

c) NFC ~ a body to distribute taxes among center and provinces

NFC has defined a formula based on population, revenue generation, poverty or backwardness and inverse population density to ensure that each province get its share accordingly.

5. Conclusion =

To recapitulate, although, center-province relations have been on roller coaster side since the concept of federation invoked in the constitutions of Pakistan, however, by following the mechanisms available in the constitution of 1973, issues and irritants can be resolved to a significant level.

Q#1.-

Significance of Constitutional Amendments in Pakistan and Shaping of country's legal and Political Framework

1. Introduction

"18th amendment returned Pakistan to a parliamentary system of government.

The 18th amendment also sought to deter future violations."

(Institute of South Asian Studies)

Amendments in the constitutions have great significance in Pakistan's political history. Furthermore, it has shaped the legal and political framework of

country to a significant extent. The deletion of Art 58(2b) returned Pakistan to a parliamentary form of government. The reconstitution of CCI further empowered the body to resolve center-province relations. Also, the high treason (Art 6) has been amended to avoid extra constitutional adventures. Furthermore, the Art 63-A has further discipline the parties by redefining defection. Moreover, the devolution of powers to local governments and the merger of erstwhile FATA into KPK has been the major advancement to strengthen the country's political and legal discourse.

2. Significance of Amendments in Constitution to Pakistan's political History

a) Art 63(A) ~ redefined in 18th amendment to strengthen party discipline

Defection was redefined and floor-crossing has to be decided by the party head. This resulted in the prohibition of floor-crossing and strengthening of party discipline.

b) Deletion of Art 58(2b) ~
an advancement to hinder
extra constitutional
adventure

The dissolution of the
national assembly by the president
was added in 17th amendment.

However, the deletion of this
Article, resulted in the withdrawing
of powers of president and
ensured the civilian supremacy
over usurpance of unconstitutional
powers.

c) Devolution of powers to
local government ~
Art 140A

Devolution of powers to the
local bodies through 18th amendment
further changed the political
discourse. The provinces are
required to devolve, political,
administrative and financial powers
to the local governments.

d) Merger of erstwhile FATA
to KPK ~ a step to
counter terrorism

Merger of erstwhile FATA
to KPK is another significant
event in the political history of
Pakistan. The seats of national
assembly are rearranged to embed

the erstwhile FATA into the legislature. Furthermore, it has also increased the financial share of KPK in country.

d) Prime minister limit to hold office more than twice done away with

Art 91, through 18th amendment, the term of PM to hold office, more than twice has been done away with. This has led to the election of PM Nawaz Sharif for the 3rd time in 2013.

3. Constitutional Amendments Shaping the legal and Political history

a) Increase in the terms of PM to hold office

18th amendment has allowed the PM to hold office more than twice. This has further strengthened the elite capture and dynastic politics in Pakistan to a significant level. This culture further hinders the election of competitive leadership.

b) To curb the extra-constitutional adventures ~ withdrew power of President

To curb the extra constitutional adventures, powers of president have been done away with. In part, through Presidential orders, assemblies were dissolved to make space for dictatorship rule.

c) Insurgence in terrorism in KPK and Balochistan ~ merger of ex-FATA

The infiltration of TTP in Pakistan has increased and terrorists attacks have surged to dangerous levels claiming lives of security personnel every now and then.