

Q:- Evaluate the concept of provincial autonomy under 18th Amendment.

I. Introduction

18th Amendment is considered the important development in the constitutional history of Pakistan. It has tried to reduce the long tussle between the centre and provinces by assuring the provincial autonomy. Many subjects which were prior under the jurisdiction of centre ~~were~~ are now transferred ^{to} under the provinces. Moreover, it has endeavoured to make federating units self-sufficient in all important decisions. However, there are present some implementation challenges of the 18th Amendment, which could be removed by consensus-based decisions.

"18th Amendment" is the most comprehensive restructuring of federal and provincial administration since 1947."

(Senator Roza Rabbani)

II- How 13th Amendment has ensured the provincial autonomy?

i- Strengthening provinces vis-a-vis federation

13th Amendment has tried to divide powers between center and the provinces as the important principle of federation. It has assured the provincial autonomy and self-governing ability of the provinces. For example, under Article 157, federal government has to consult provincial government on important issues like the construction of hydroelectric power station.

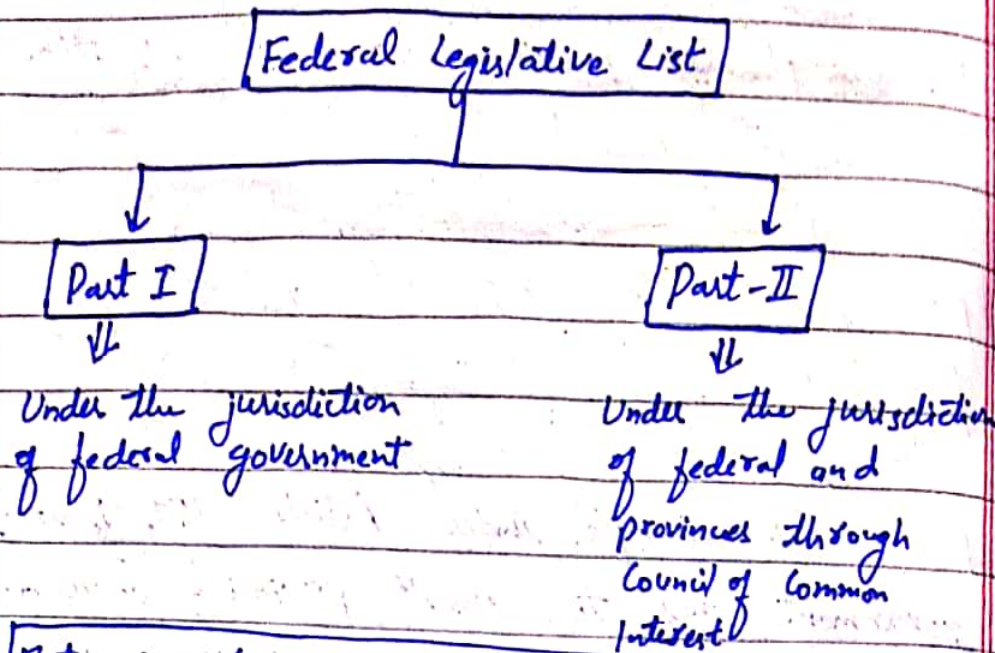
ii- Encouragement of financial autonomy

Another important development of 13th Amendment is the provision of financial autonomy through NFC Award. According to Article 160(3), provinces will not get lesser share than previous NFC award to fulfill their financial obligation.

iii- Decentralizing the responsibility and authority

13th Amendment has given the

autonomy to provinces through the restructuring of legislative list.



Fate of Concurrent Legislative List

Concurrent legislative list has been abolished. It contained 47 subjects. Two subjects were transferred to Part-II and one to Part-I. 47 residuary subjects were transferred to provinces as residuary powers.

Exclusive Provincial Powers

Some of the powers are given below

- Criminal law and procedure
- Civil procedure
- Social service sectors and social welfare
- Religious education and Zakat
- Tourism
- Population
- Pollution

iv- The formation of Council of Common Interests

CCI was formulated for the provinces to have say in important national issues along with center. These functions include the decisions on NFC award, economic domain and some other issues like the water share.

v- Joint and equal ownership of natural resources

This provision has allowed the provinces to have rightful beneficial role in their natural resources. Article 132 has allowed the provinces to have rights on their own natural resources.

vi- Delegating powers to provinces to raise loans on their own

Article 167(A) has allowed provinces to raise domestic or international loans on their own. This article has further strengthened the autonomous status of the provinces, because provinces now can fulfill their financial obligations in this way.

vii- Promoting people-oriented governance models

18th Amendment has also transferred power to the lower tier so that local people could get social services as their doorstep. Thus, article 140(A) has allowed to form local government.

viii- Ensuring democratic tradition of consensus-based decision-making

It involves the important decisions on government institution. For example, according to article 213(2a), chief election commission would be elected when prime minister gives three name after the consultation with the opposition leader.

ix- Preservation of fundamental rights

Article 4 preserves the fundamental rights which cannot be repressed under any circumstances.

Article 10A	right to fair trial
Article 19A	right to information
Article 25A	right to free education upto 16 years of age

X- Right to repeal or amend any legislation crafted by parliament

Provincial government has the right to repeal or amend any legislation which they deemed a threat to their authority. Article 144(a) has given this right to provincial government.

18th Amendment has wedged the center by making provinces more autonomous.

III- Critical analysis of the true nature of devolution of power to provinces to make them autonomous

i- Reluctance of the transfer of power by the center

The center has reluctant to transfer power to the provinces because it could lessen their authority in terms of physical, financial and human resources.

ii- The exclusive subjects of the provinces and the nature of devolution

Health, education and agriculture are the subjects of the provinces. However, they are not devolved properly.

Shift of power in agriculture domain

Prior to 18th Amendment, there was the Ministry of Food and Agriculture which was abolished afterward. However, The Ministry of National Food Security and Research was established in 2011 thus threatening the provincial autonomy.

Education sector and power decentralization

Curriculum, syllabus, education policy and standards of education are the provincial subjects but federal government has retained Higher Education Commission to itself.

Health department and devolution

In 2011, Ministry of Health was abolished but in 2013 the Ministry of National Health Services, Regulation and Coordination was reincarnated to challenge the self-efficiency of the provinces.

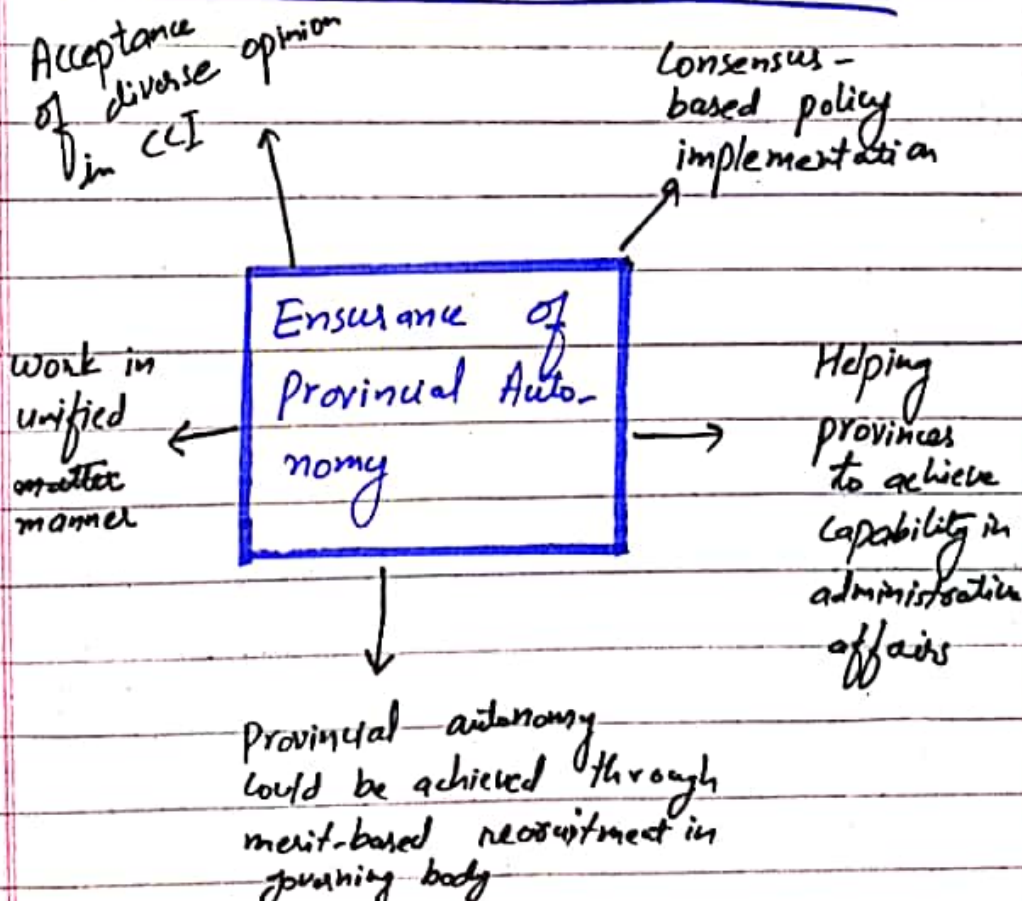
iii- Perceived inability of provinces hinders the devolution of authority

Centre considered provinces incapable of doing task regarding administration so they do not completely transfer power.

"Provincial administration machinery lacks professional capacity and training to deliver."

(Umer Javed)

IV. How does the real implementation of 18th Amendment take place to ensure provincial autonomy?



V- Conclusion

19th Amendment is the landmark development in Pakistan's history. It has helped provinces to get their due share and make themselves autonomous. Moreover, the allocation of financial share, the formation of Council of Common Interest (CCI) and the devolution of residuary powers of to provinces are due to the 18th Amendment. Despite the excellence of 18th Amendment, certain implementation challenges ~~are~~ has occurred, which could be removed through proper consultation.

Q:- How far 18th amendment has affected the powers of Senate in the 1973 constitution of Pakistan?

I- Introduction

II- The objectives of Senate

III- The power of Senate before 18th Amendment

- i- Largely advisory role
- ii- Weaker oversight and accountability mechanism

It lacked the authority to summon government officials for questioning independently

- iii- Reduced role in Budgetary matters

IV- The power of Senate after 18th Amendment

- i- Recommendations on the Money Bills
- ii- Annual report on the implementation of Principles Policy is placed before Senate
- iii- No promulgation of the ordinance when Senate is in session
- iv- Collective responsibility of PM and his cabinet to both the houses
- v- Increase in the working days of Senate

IV- Conclusion