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How far the nature of Center-Province relations has changed under various amendments to the 1973 Constitution? Evaluate.

INTRODUCTION

Pakistan is a land of 240.1 million ^{inhabitants} living across 5 provinces. The Federation and its units have a long history of power sharing. During some part of the initial years, the provinces were merged under the One Unit scheme, but for the major part the federating units were given their due share in administrations and resources through various clauses in the Constitution. Today, after the passage of the 18th Amendment the federating units are ever more stronger with increased powers to legislate/formulate their own laws and an enhanced share in the Federal divisible Pool.

BRIEF HISTORY OF CENTRE-PROVINCE RELATIONS

Pre-Partition - Quaid's Dream

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The father of the nation envisioned the following as the model for Pakistan

"The theory of Pakistan guarantees that the federal units of national government would have all the autonomy... but certain powers will remain vested in the central government such as the monetary system, national defence and federal responsibilities."

(Quaid-e-Azam in an interview given in the US in 1945)

Centre Province Relations

Till 73'

1947-55

a) There 5 provinces and 1 Federal Territory along with 14 princely states

1955-1970

a) One Unit was imposed where provinces were merged and 2 units (East/West) were created

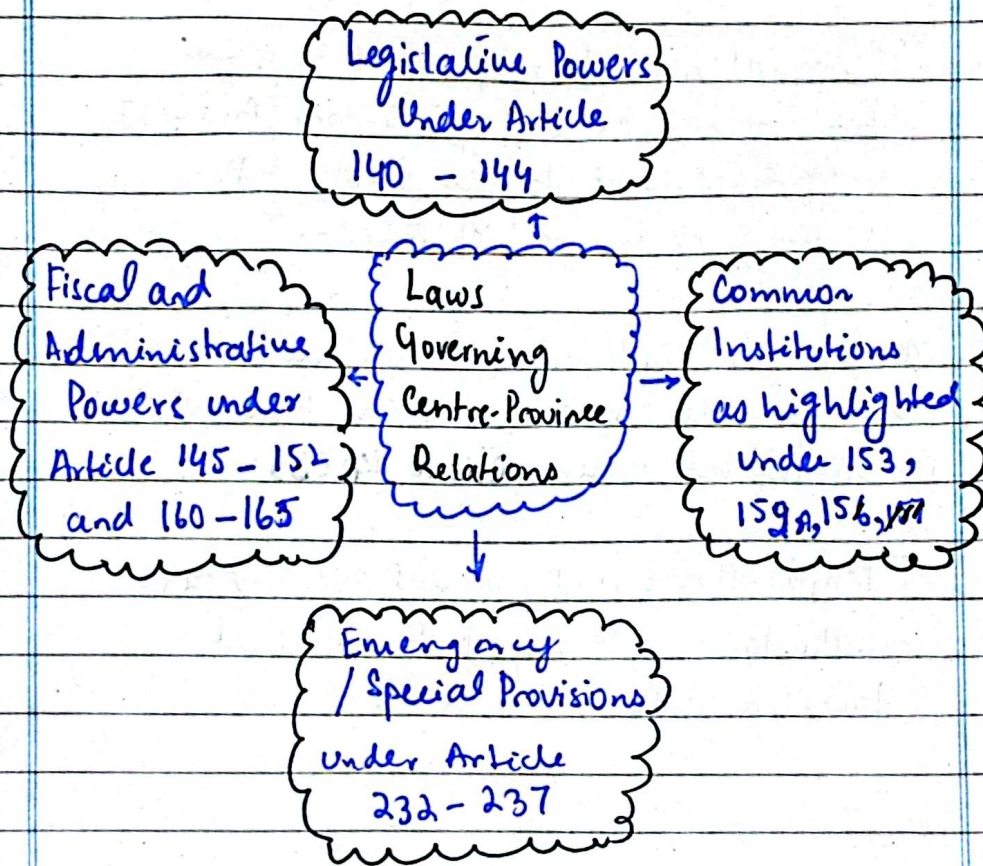
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b) Resource collection and allocation was done by the center.

Units capacity was being ^{built} and subsequently powers had been transferred to them

b) Strong Federal center with weak provinces/units.

CENTRE PROVINCE RELATIONS UNDER 1973 CONSTITUTION



LEGISLATIVE POWERS OF THE PROVINCES

Under the 1973 constitution, provinces have been given power to legislate on those domains which are not included in the Federal Legislative List. The National Assembly and Senate can only legislate on the 44 subjects delineated in the FL.

Under Article 141,

"Provincial Assembly may make laws for the Province and Majlis-Shoora [Parliament] may make laws for the whole of the country or any part of Pakistan."

Moreover, both Parliament and Provincial Assemblies can legislate on a common topic which is highlighted under Article 142(b).

"Majlis-Shoora and Provincial Assembly can make laws with respect to criminal law, procedure and evidence."

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In the case of inconsistency, the Federal Law shall take precedence over the Provincial Law under Article 143

"In case of any inconsistency, the law passed by the Parliament shall prevail and the Act of the Provincial Assembly to the act of repugnancy shall be void."

Lastly, the provinces may with their own consent allow the Parliament to legislate on a matter that concerns the Province not enlisted in the FL under Article 144

FISCAL AND ADMINISTRATIVE POWERS OF THE CENTER AND PROVINCES

Under the 1973 Constitution, Articles 145 to 152 delineate the administrative relationship between the Centre and provinces.

Article 148, outlines the obligations of the Centre and Provinces namely

" a) Federation shall protect the

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Province from any external and
Internal aggression

(2) Province's interests shall be
safeguarded by the Federation

(3) Provincial authority shall be
exercised in compliance with
Federal laws.

Similarly, fiscal division has been made under
the clauses/articles 160 to 165. Important awards
such as NFC (National Finance Commission)
Award are given the constitutional cover
through these articles.

Under Article 160 (2)

"The NFC shall make recommendations about
(a) Division of net proceeds between
Province and Federation
(b) Grant-in-aid to Province from Federation
(c) Borrowing powers of Federation
and Provinces
(d) Any other financial matter."

Similarly, in another clause it has been highlighted
that

"Share of Provinces in each Award

shall not be less than the share already given to the Provinces."

Lastly, hydel and gas royalties are regulated under Article 165, the Federation would pay out the royalties collected to the provinces.

COMMON INSTITUTIONS UNDER THE 73' Constitution

1973 Constitution gives cover to the following constitutional bodies

CCI (153)

The Council of Common Interests is a body tasked with regulating Inter-Provincial disputes.

NEC (156)

The National Economic Council shall Federal and Provincial governments over the fiscal and economic health of their respective jurisdictions.

NSC (152)A

The National Security Council was also a common institution to oversee the security situation in the country and was given constitutional cover under 152(A). but was later repealed under

18th Amendment

EMERGENCY / SPECIAL PROVISIONS THAT REGULATE CENTRE / PROVINCES RELATIONS

In case of internal disturbances and ^{external} aggressions the Federal government may impose governor rule after the resolution being passed from the Provincial Assembly.

Article 232 100

"If the President is satisfied, in case of situations that affects the security of Pakistan and is beyond the power of the Provincial Government, he may issue a proclamation of Emergency."

"Provided that resolution is passed from Provincial Assembly or Parliament"

CONCLUSION

All in all, 13th constitution brought more straight to the centre provinces relations. Subsequent amendments empowered the provinces to

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enact their own legislations; create and demand a wider share of resources from the Federation and secure vital provincial autonomy.