

Discuss the history of constitutional development in Pakistan since 1947. How 18th Amendment is taken as a revolutionary step towards provincial autonomy in Pakistan?

① Introduction:

No ^{other} country has experimented with so many different constitutional forms, from parliamentary democracy to presidential to hybrid setups, except Pakistan. Also, it took 9 years for Pakistan to develop its first constitution in 1956, replacing the Government of India Act 1935. It was the first indigenous charter, declaring Pakistan as a Parliamentary Islamic Republic. Due to lack of consensus, Pakistan fumbled from 1956 and 1963 to 1973 Constitutions with repeated amendments in all of them. However, the 18th Amendment amended one-third of the entire constitution to redress provincial grievances.

② History of Pakistan's Constitutional Development

(a) Early Constitutional Challenges (1945-55)

(i) Inherited Constituent Assembly from 1945 Elections

Pakistan borrowed constitutional arrangements from colonial setup under the Indian Independence Act, 1947. This interim governance did provide an immediate constitutional structure, but was blind to new post-colonial realities of Pakistan.

(ii) Dismissal of 1954 Constituent Assembly

Governor-General Ghulam Muhammad dismissed the Constituent Assembly to preserve executive dominance. Despite it worked for 7 years to draft a constitution, it was dissolved to avoid parliamentary sovereignty.

" The dissolution of 1954 Constituent assembly is a blow to representative

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government in Pakistan. — Hamid Khan.

(iii) Centralized One Unit Scheme (1955)

One Unit reorganized West Pakistan as a single province, giving the central government control over all former provinces. Provincial legislatures were abolished and local autonomy was removed.

(b) Constitutional collapse and Executive Overreach (1956-1971)

(i) First Constitution of 1956

Pakistan became an Islamic Republic with a Parliamentary system and unicameral legislature. However, it implemented East-West parity in the National Assembly. This provincial misrepresentation alienated East Pakistan, leading to the abrogation of constitution immediately in 1958.

(ii) Constitutional Deadlock Post 1970 General Elections

One Unit was ended and provinces

new restored. However, LFO set order for first general elections after 23 years of its existence. However, East Pakistan (Awami League) won majority in National Assembly. On the contrary, West Pakistan resisted transfer of power.

(iv) Breakup of Pakistan (1971)

Since the central government failed to honour electoral mandate, civil war along with external intervention by India, divided the eastern wing of Pakistan into Bangladesh. It is one of the darkest chapters of the constitutional history of Pakistan.

(ii) 1962 Constitution

General Ayub assumed power as President.

He introduced Basic Democracies system wherein local councils indirectly elected members of provincial and national

assemblies. It introduced a presidential
unicameral legislature. Provinces were
marginalised as one unit scheme continued
for West Pakistan.

"Ayub Khan's BDS created a
controlled democracy but
concentrated power at the Centre." — Stephen
Cohen

(c) New Consensus-Based Constitutional Arrangements (1973-2010)

(i) 1973 Constitution and Amendments to it
Post-1971 breakup, Pakistan needed a consensus-
based, inclusive federal framework. It introduced
a parliamentary, bicameral legislature with
strong federal structure. CCI was created for
inter-provincial coordination. It served as the
longest-standing constitution in Pakistan's
history.

Amendments

- 8th → President could dissolve NA.
- 13th → Removed 8th Amendment
- 14th → Restored 8th Amendment
- 18th → Provincial autonomy
- 25A → KP-Fata Merger

(ii) 1988-2003 (Return to Civilian Rule)

Attending civilian government (Musharraf, Nawaz Sharif) faced repeated dissolutions under 58(2)(b). In 1999, General Musharraf seized power and partially suspended the 1973 Constitution. In 2003 under the 17th Amendment, he created a NSC (National Security Council).

(iii) Democratic Transition (2008-2010)

For the first time in the constitutional history of Pakistan, one civilian government completed its 5 year tenure. Also, it ~~gave~~ peacefully transferred its powers to next civilian government.

"2008-2018 was Pakistan's longest uninterrupted civilian decade since 1971" - PILDAT.

(1) 18th Amendment was Revolutionary step

Before the 18th Amendment, President had discretionary powers to dissolve NA with limited provincial autonomy. Over 100 subjects were devolved to provinces by abolishing the concurrent lists. It also devolved 17 federal ministries to give fiscal, administrative and legislative autonomy.

Why Revolutionary?

(i) Amended One-Third Constitution

For the first time in the history of Pakistan, one-third (36%) of the constitution was changed under this amendment. Out of 280 articles, 102 were amended to empower provinces with fiscal, administrative and legal powers.

(2) Cross-Party Consensus

The amendment was passed unanimously by the National Assembly and senate, reflecting a broad-based party consensus. Past amendments often failed due to their partisan nature. However, this amendment got an unprecedented political backing for constitution overhaul.

"For the first time, political parties left behind their partisan personal interests for national coherence" — PIDE

(3) Local Governance Strengthened

The 18th Amendment made it mandatory for federal government to transfer powers to provincial governments, which will then empower grassroots governance.

(5) Strengthened Federalism

18th Amendment strengthened the federalism in true letter and spirit. This was the need of the hour after the gruesome of 1971 breakup of Pakistan. The federating units were empowered in real sense to make them feel a part of federation.

Conclusion

Thus, it could be concluded in the end that since 1947, Pakistan faltered from one Constitution to the other, having experimented with parliamentary, presidential and hybrid system, with elements of both unicameral and bicameral legislature. Also the 18th Amendment added to the democratic consolidation of the country. Thus, the