

Question:

Discuss the Federal structure of the 1973 constitution of Pakistan after 18th Amendment. Why criticism on 18th amendment started recently.

Constitution is the supreme law of Pakistan. There are 26 amendments till date in 1973 constitution of Pakistan. This 18th amendment was passed on and it amends 102 Articles of constitution out of 230 articles. This highlights the significance of 18th amendment which changed the federal structure.

There are many articles amended under 18th amendment which effected the federal structure, such as:

Suspension or abrogation of Law will be treated as High treason (Article - 6)

There is a long history of abrogation of constitution of Pakistan. The first constitution of Pakistan was abrogated by Iskander mirza in 1958, which was established in 1956 after struggle of 9 years. The second constitution was established by Ayub Khan in 1962, a step towards democratic system.

It was later abrogated by Yahya Khan in 1969. The third constitution was established in 1973. Zulfikar Ali Bhutto introduced article 6 to stop these abrogations. But in 1977, Zia suspended the law. Later, Musharraf suspended law again in 1999 for 3 years. The constitution was suspended for 17 days in 2007. So, to stop the suspension and abrogation, the article amended and introduced suspension as high treason as well.

Withdrawal of the power of president to dissolve national assembly. (Article-58)

The president can dissolve national assembly any time, to limit the power of president article-58 is amended. The president can not dissolve national assembly.

Withdrawal of the power of governor to dissolve provincial assembly. (Article-112)

The power of governor under 13th amendment was limited so governor can not dissolve the

provincial assembly.

Right of Fair trial (Article 10-A)

The right to fair trial was given to every citizen of Pakistan.

Right of Information (Article-19-A)

Everyone has the right to get information.

Right of Education (Article-25-A)

It is the responsibility of state to provide education to children from age of 5 to 16.

Transferred the power to related Governor from President to PM.

Initially it was related to PM. Prime Minister had the authority to remove governor but it was given to PM president in 18th by 8th amendment.

Abolition of concurrent list

The subjects under federal government was described by concurrent list. In 18th amendment concurrent list was abolished. Now Federal Legislative list determines the subjects ^{under} federal government.

Bar on reissuance of ordinance (Article 84, Article 128)

Many government used ordinances for their own benefit. The difference between ordinance and rule blurred. So, now no ordinance can be reissued for more than ~~two~~^{once} times.

The duration of ordinance passed by federal is 120 days. The ordinance passed by provincial government lasted for 90 days.

Bar on more than two terms of PM (Article - 91)

The PM can not enjoy ~~terms~~^{more} than two terms.

Provinces can take International loans (Article 167(4))

The 18th amendment allowed provinces to take International loans independently. Punjab for 'metro' project ^{has been} taken loan from China. KP for BRT from Asian Development Bank.

Equal share in Mineral oil and gas. (Article 172)

The gas or mineral oil was previously under center. The amendment gave provinces

equal share on their mineral oil and gas.

Islamabad High Court (Article 175)

There were four high courts of each province. The article 175 of constitution was amended and now federal has its own 'Islamabad High Court'.

Institutionalization of Judicial system (Article 175(A))

Recruitment of judiciary has always been a controversy. A judicial commission has been established. The committee has 8 members, 4 from government and 4 from opposition.

Institutional of Election Commission (Article 213)

It ~~was~~ had been very easy in Pakistan to influence election commission. The 13th amendment created a committee of 12 members, 6 from government and 6 from opposition.

Institutionalization of caretaker government (Article 224)

8th amendment brought the concept of caretaker government

to ensure free and fair election. The first caretaker PM of Pakistan was Gulam Muhammad Jatoi. The selection of caretaker government has also been done by both govt. and opposition. For instance, Nawaz Sharif and Raja Pervaiz Rashtogi selected Anwar-ul-Haq as caretaker PM.

Share of Provinces in NFC award can not decrease.

Federal collect all taxes and give the fixed share to province. National Finance Commission decided this and the formula by which share is decided is known as NFC award. In 6th NFC award, Fed. Federal had 54% and 46% for provinces. In 7th NFC award, the share of provinces have increased upto 57.5% and Federal has 42.5%.

Limited federal cabinet and provincial cabinet.

This amendment gave a formula to limit the cabinet to fixed number. It removed the concept of Minister of portfolio because they were just burden on

economy of Pakistan.

Formula: (no. of the members
of parliament) $\times 11 / 100$

CRITICISM:

The amendment passed in 2010 and it is criticised for many reasons. The recent critical condition of Pakistani politics highlighted many points in amendment.

The criticism argues that it gave more power to provinces and less power to federal. For instance, by amending articles 89, 167(4), 172.

The federal has now less control on the government provinces. This also pointed towards lack of unity between provinces and center. The criticism

increased by returning department like NDMAs and drug regulation.

Provinces have no proper system and infrastructure to run these institutions. They gave these institutions back to federal.

Provinces are not capable to govern their subjects. That's why they are giving them back to federal.