

Isbah Hanif

Q.No.1.

INTRODUCTION:

The 1973 constitution laid the groundwork for the Pakistan's political and legal structure. It emphasized parliamentary democracy and delineating the powers of President, Prime minister and Parliament. The 1973 constitution explained a federal form of government with balanced distribution of power between the centre and the provinces. It established the framework for the country's governance and set a stage for subsequent constitutional developments. Pakistan has undergone several constitutional developments/ amendments that have played a pivotal role in shaping its legal and political framework. Some of the major constitutional amendments include 8th Amendment, 18th Amendment, and 21st amendment gravely impacted the political framework of 1973 constitution.

MAJOR CONSTITUTIONAL AMENDMENTS SINCE 1973.

The major constitutional amendments mainly 8th, 18th and 21st Amendment has impacted the legal and political framework of country. They are as follows:-

1. EIGHTH CONSTITUTIONAL AMENDMENT (1985)

Parliament adopted the Eighth amendment

DATE: ___/___/___

in November 1985. This amendment significantly altered the political landscape by concentrating power in the hands of the President. This change had a lasting impact on the legal framework, disrupting the balance between the executive and legislative branches and influencing the trajectory of the parliamentary system.

IMPACTS OF AMENDMENT

a. Presidential Powers Expanded:

8th Amendment expanded the powers of President, leading to concentration of power in executive branch. It allowed President to dissolve National Assembly, dismiss the Prime Minister and appoint military chiefs. This concentration of authority raised the concerns about the potential for authoritarian governance and limited checks and balances.

b. Weakened Parliamentary System.

Parliamentary System was the heart of 1973 constitution and this amendment weakened it by diminishing the role of Prime Minister and the National Assembly. It shifted the decision-making authority towards the executive impacting the resp representativeness of government.

c. Political Instability.

The concentration of power in the Presidency contributed to political instability, as changes in leadership became more susceptible

to executive decisions. This instability affected the continuity of policies and governance, hindering the development of a stable political environment.

d. Legal and Constitutional Concerns.

The 8th Amendment raised legal and constitutional concerns about the separation of powers and the independence of key institutions. Analysts had argued that it undermined the principles of democracy and rule of law by centralizing authority in the executive without adequate checks.

Due to the detrimental impacts of the 8th Amendment eventually led to its repeal in 1997, acknowledging the need to restore a more balanced distribution of powers.

2. 18th CONSTITUTIONAL AMENDMENT (2010)

The 18th amendment passed in 2010 marked a the most extensive amendment till now. It shifted the framework towards decentralization by empowering provinces impacting the legal and political framework. This constitutional change enhanced regional autonomy, fostering a more balanced federal structure and strengthening the parliamentary system.

IMPACTS OF AMENDMENT

The 18th amendment was a transformative development that significantly impacted the

country's legal and political framework. The key impacts are as under:

a. Devolution of Powers:

The 18th Amendment shifted towards decentralization by devolving substantial powers to provinces. The federal list was abolished and powers like health, education, disaster management were devolved to provinces. This empowered provinces to have more control over their affairs - impacting the legal framework of country-

b. Strengthening Provincial Autonomy.

Provincial Autonomy was the central theme of The 18th Amendment. It aimed to promote a more balanced federal structure by enhancing the decision making authority of provinces, contributing to a more equitable distribution of resources and opportunities. This amendment gave the right to bring investments and take loans from international banks. It also awarded more share to provinces in NFC Award. These changes although received positive reviews but some critics have pointed that extensive devolution of powers will lead to issues of co-ordination and efficiency and concerns were raised regarding the potential of provinces to manage affairs like health and disaster management which was proved right as these two spheres are again devolved to federation due to incompetency of provinces to handle them.

DATE: / /

c. Constitutional Reforms.

The constitutional reforms in 15th amendment included changes in the appointment process of judges and The Federal Public Service Commission. These reforms aimed to enhance the independence of judiciary and bureaucratic institutions by institutionalization of appointments.

d. Impact on Parliamentary System:

The 17th amendment increased the powers of President which was repealed in 18th amendment strengthening the parliamentary system by reducing the President's discretionary powers and reinforcing the authority of Prime Minister and National Assembly. This shift had a positive impact on democratic governance and accountability of elected representatives.

The 15th amendment played a pivotal role in reshaping Pakistan's legal and political landscape. By devolving powers to provinces and reinforcing democratic principles, it aimed to create a more balanced and representative governance structure in the country.

3- 21st CONSTITUTIONAL AMENDMENT (2015)

In response to heightened security concerns, parliament adopted 21st amendment in 2015. It introduced military courts for the expedited trial of terrorism-related cases. This constitutional amendment showcased the

adaptability of Pakistan's legal framework to address pressing national security issues while adhering to democratic principles.

IMPACT OF AMENDMENT

It introduced significant changes to the legal and judicial framework. The key aspects of impacts is as follows:

a. Military courts for Terrorism Cases.

It was the primary focus of 21st amendment to establish military courts for the speedy trial of individuals involved in terrorism related cases. This move was a response to the escalating threat to terrorism and the perceived inadequacy of civilian judicial system in handling such cases with efficiency. Military courts were believed to provide a more secure environment for trial proceedings and concerns about witness safety in civilian courts.

b. Constitutional Adaptability in Times of Crisis.

The 21st Amendment demonstrated the constitutional adaptability of Pakistan to respond to urgent national security challenges. It reflected government's commitment to taking decisive measures to address terrorism and protect the safety and well-being of its citizens.

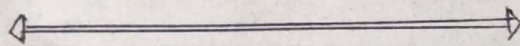
c. Sunset Clause and Extension.

The 21st amendment included a so-called "sunset clause" that initially set a two-year limit on the functioning of military courts. However, this period was later extended raising debates about the need for a more sustainable, long-term strategy to address terrorism without compromising constitutional principles.

The 21st amendment was a consequential response to pressing national security concerns introducing military courts for terrorism cases. While it aimed to enhance the efficiency of justice in the face of terrorism, it also sparked debates about the balance of between security imperatives and the protection of constitutional rights and democratic values in the long-run.

CONCLUSION:

Pakistan's constitutional journey has witnessed crucial amendments that shaped its legal and political framework. These amendments highlighted the country's ability and commitment to democratic principles while responding to the changing circumstances contributing to the ongoing evolution of its political dynamics.



DATE: ___/___/___

Q.No.2.

INTRODUCTION:-

The spirit of federalism in 1973 Constitution of Pakistan emphasizes a division of powers between the central government and the provinces fostering a cooperative framework. It promotes regional autonomy while maintaining a united nation. For smooth functioning of relations between centre and the provinces, key measures include clear delineation of powers, regular intergovernmental communication, financial autonomy for provinces and a dispute resolution mechanism. Effective coordination and collaboration ensure a harmonious balance between the centre and provinces, fostering national stability.

FEDERALISM IN 1973 CONSTITUTION:

The 1973 constitution of Pakistan embraces a federal structure, outlining the distribution of powers and responsibilities between the central government and its provinces. The key features include:

1. Division of Powers:

The 1973 constitution delineates powers between the federal government and provinces designating exclusive, concurrent and residual powers to ensure a balanced distribution of authority.

2. Provincial autonomy-

The Constitution recognizes and promotes provincial autonomy, empowering provinces to manage and govern their respective territorial territories independently in subjects like education, taxes, loans etc.

3. Concurrent Powers

The constitution of Pakistan promotes strong relations between federation and provinces by allowing for cooperation in areas like criminal law, taxation, disaster management and social welfare.

4. Council of Common Interests (CCI)

The 1973 constitution established a council of common interest as a constitutional body to facilitate intergovernmental cooperation and resolve disputes on issues of national importance.

5. National Finance Commission (NFC)

Under the 1973 constitution, a body was set up to determine the distribution of financial resources between the federal and provincial governments, ensuring a fair allocation of funds. This body is referred as National Finance Commission (NFC).

6. Provincial Assemblies:

The 1973 constitution provides for the establishment of provincial assemblies, giving provinces legislative powers to enact laws on subjects within their jurisdiction.

7. Emergency Powers

The constitution defines emergency powers that can be exercised by the federal government during times of crisis, maintaining a balance between centralized authority and the need for national security.

The federal structure enshrined in 1973 Constitution of Pakistan aims to create a cooperative and balanced relationship between the central government and the provinces, emphasizing autonomy, collaboration and the unity of the nation.

MEASURES FOR SMOOTH FUNCTIONING OF FEDERAL STRUCTURE

To ensure the smooth functioning of relations between the centre-provinces, measures like clear division of powers, effective inter-governmental dialogues, financial autonomy for provinces, resource sharing and conflict resolution mechanism. The 18th amendment in the

DATE ___/___/___

Constitution did provided provincial autonomy and devolution of powers which is a crucial step towards smooth functioning relations between centre and provinces-

CONCLUSION:

The 1973 constitution provided an elaborate federal structure with provincial autonomy and collaborative relations between provinces and the centre and it can further be improved by effective conflict resolution, and inter-governmental dialogues-