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Pak - Affair Test - 2

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Question no 1

Answer

* Introduction

During the past 50 years, the 1973 constitution of Pakistan has been amended 23 times - an amendment every two years on average. This is no surprise as the constitution of any country is a dynamic document and amendments are made in response to evolving. India which became independent at the same time as Pakistan, amended its constitution 105 times since documented in 1950. Pakistan's constitution has evolved in several significant ways during the past 50 years. Parliament addressed the most sensitive issue of provincial autonomy through 18th amendment in 2010. It was the same issue which had led to the dismemberment of Pakistan in 1971 and had been a source of bitterness in the remaining four provinces ever since. It was one of the most significant amendments that shaped the country's legal frame.

* Major Constitutional Amendments.

The Political A atmosphere of the country, however, did not calm down and Zulfikar Ali Bhutto was overthrown by General Zia ul Haq in 1974. ~~##~~

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The first 8 amendments of the constitution was made by him. The first amendment was made in 1974, while the 8th was finalized in 1985.

- 8th Amendment

The 8th Amendment was although controversial, highly increased the authority of the President. In total, fourteen articles were amended under the 8th amendment. Therefore, these amendments fully deteriorated the essence of federalism and changed the parliamentary form to a semi-presidential form of government.

More amendments were introduced under the Chief of Army Staff General Pervez Musharraf's rule, another martial law administrator. He declared the emergency in the country in 1999 after PM Nawaz Sharif refused to allow his plane to land in Karachi on October 1999. The military reacted rapidly and the constitution was suspended by General Musharraf.

* 17th Amendment

The significant 17th Amendment was made to the constitution in 2003 by General Musharraf. He added some articles to increase the tenure of judges to higher courts to three years under article 62. It also restored Article 58(2)B which gave

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the President the authority to dissolve the assemblies. The role of the Prime Minister was diminished and that of the President was highly enhanced. Due to all these unnecessary amendments, the structure of the constitution had distorted terribly and a proper amendment was required. The 18th up to some extent fixed many errors.

• The 18th Amendment

The 18th Amendment contains some very strikingly & significant features. It aimed to restore parliamentary sovereignty by transferring powers from the President to the Prime Minister, decentralizing the federal system, improving the relationship between the center and provinces, and resolving the inter-provincial issues.

- Strengthening the Parliamentary System

The role of Prime Minister was enhanced by revoking Article 58(2)B and handing over the authority back to PM. The President's powers were altered and the appointments were to be made on the advice of Prime Minister only.

The role of Senate was enhanced and 23 were to be elected from each province. Hence, to ensure equal representation the

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were made as follows:

- 14 General Seats
- 4 ulema or technocrats
- 4 women
- 1 Non-muslims or minorities.

Furthermore, according to 18th amendment the cabinet members will be held responsible to both Senate and National Assembly and ensure that ordinance cannot be issued in the absence of Senate or NA.

* Administrative Relations between Center and Province.

The 18th amendment allows Provincial assemblies, the right to repeal or amend any legislation crafted by the Parliament for one or more provinces, on matters not mentioned in federal legislative list.

- NFC Award revised

The constitution states that the NFC is to be revised after every five years and to periodically make recommendations to the president.

In 2010, NFC Award share of the provinces was increased by 57.5%. Therefore the 18th amendment made provinces relatively strong and ensured provincial autonomy in many matters. The enhancement of the Council of Common Interests (CCI) resolved the remaining issues of federation - province relations. Furthermore, each province was asked to create a Local Government System. The administration responsibility was transferred to the

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to the elected representative of local government.

* Independence of Judiciary

A new procedure to appointment of Judges was introduced in Article 175(A) under the 18th amendment of constitution. The responsibility of appointing the Judges was handed over to the Judicial Commission, a body of seven people and the head of Chief Justice of Pakistan. It also states that under Article 177 president can also appoint judges in accordance with Article 175(A). It was done to make sure that courts may never give legal cover to military adventurism in the future.

* Provided fundamental Rights.

The 18th Amendment provided fundamental rights and made sure that the citizens would be the major beneficiaries of the amendment. It gives the rights of free and fair trial, and right to information while maintaining transparency. It allowed the media to question any official in all the matter of Public importance.

Further more some other important effects of 18th amendment in shaping the legal framework of the country.

- Removal of Discretionary Power
- Ensured Women Empowerment.

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- Dealing with Treason

A Few amended article regularly remain under criticism of the critics. For example Article 160(3)A. The reduction in federal revenue generation left the center with a low budget. Another criticism is on Article 142 as it has reduce the control of the center on the provinces consequently making center weak. Besides the above mentioned criticized articles three more articles are usually the subject of critique. These articles include Article 24(A), 140A and Article 153. Apart from these critiques, the amendment helps to make constitution of Pakistan more strong.