

Q.No-2

The spirit of federalism as enshrined in the 1973 constitution and measures required for the smooth functioning of relations between the centre and the provinces

Introduction:

The 1973 constitution meets the requirements of federalism. The federalism has features like written constitution, distribution of power between the centre and the units, independent judiciary and so on. The above features are also found in 1973 constitution which make it federation. The relations between the centre and the provinces have remained strained over the history. However, the relationship can be improved by taking certain measures. These

measures can include proper distribution of resources between the centre and the provinces. The role of institutions like council of common interests (CCI) and national economic council (NEC) can also be increased to help improve relations between the centre and provinces.

Concept of Federalism

Federalism stands for distribution of power between the central government and governments of the units. These units can be called provinces or states depending on the country or the state's nomenclature it chooses.

for example:

USA has states as its units.

Pakistan has provinces as its units.

The federalism has certain features that make it as such.

① Written constitution

Federal states have written constitution.

Example:

USA is a federal state and it has written constitution.

(ii) Distribution of power

The power is distributed between the centre and the units in federalism.

(iii) Independent judiciary

Judiciary stands independent. It acts as custodian of constitution.

(iv) Bicameralism - Two houses ^{Representatives} (US) Head of state -

The spirit of federalism in 1973 constitution

① Written constitution

Pakistan is a federation state as it has written constitution. There are 280 articles in it. The written form of constitution lays guidelines about constitutionality and unconstitutionality of any

act by the state or the units.

Example:

Article 6 of 1973 constitution states that whoever abrogates or holds constitution commits high treason.

② Distribution of power

1973 constitution distributes power between the centre and the provinces which is determinant of federalism. There are two lists I and II. The centre and the provinces have to legislate on subjects given to them.

Example:

Foreign affairs is subject of the centre.

Education is subject of the provinces.

③ Independent Judiciary

The judiciary is independent. It is custodian of the constitution. However, its judges are appointed by president with consultation of PM.

④ Bicameralism

There are two houses in federation of Pakistan. The upper house or Senate which represents the units. While, the lower house represents on the basis of population. The joint house decides the controversial issues. That's bicameralism also indicates towards the spirit of federalism in 1973 constitution.

⑤ The head of state

There must be two heads in federalism, the head of the government and the head of the state. As per 1973 constitution, the head of the state is the president in Pakistan.

⑥ Fundamental rights

Fundamental rights are also prerequisite to federalism. 1973 constitution has these rights from article 8 to 28 in

the constitution. These rights are given in federalism to prevent the arbitrary power of the state. Judiciary is entrusted with power to uphold these rights.

Measures required for smooth functioning of relations between the centre and the provinces

① Proper distribution of resources

What becomes bone of contention between the centre and the provinces is distribution of the resources. Although, NFC award 2010 was announced to ensure proper distribution, still provinces have reservations on it. They claim that they do not get due share on the basis of population and development.

Example:

Balochistan claims that despite less development it receives no

due share for that purpose.

② Increasing role of CCI

Council of common interests was given power to resolve issues that are of national importance. However, it has been seen to be non-operational on many issues. So, its role must be increased with its operationality to reach consensus on many controversial matters.

Example:

Construction of Kala Bagh Dam

③ Increasing role of NEC

National economic council is entrusted with responsibility of formulating economic and social policies for equal development of the state. However, it has remained ineffective as it has not come up with any such policy in this regard. It has to be made not only active but

its role must be increased without political or personal motives to play its role for equal development of the provinces. The development would make provinces happier leading them to better relations with the Centre.

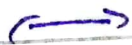
④ Ensuring devolution of Power

Constitution has underlined guidance for local government. However, they have not been allowed to function properly for political reasons by provincial governments. So, provincial governments must be compelled constitutionally to ensure proper functioning of local government. The local government will ensure public service delivery leading them to have favourable opinion with regard to the Centre.

Conclusions

To conclude, the spirit of federalism is manifested

in the 1973 constitution in the shape of independent judiciary, written constitution, bicameralism and so on. The relations between the centre and the provinces can be improved by proper distribution of resources, increasing the role of CCI and NEC and ensuring devolution of power as it enhances public service delivery.



Q NO-1

The significance of major constitutional amendments in Pakistan's political history and their role in shaping the country's legal and political framework.

Introduction:

There is no denying the fact that the major constitutional amendments have played an important role in Pakistan's political history. They have entirely changed the whole political dynamics.

Eighth amendment (8th) gave the power to the president to dissolve the legislature. While, 13th amendment gave power to the prime minister. Similarly, 17th and 18th amendments have played their role in changing the political dynamics in Pakistan. These amendments have changed country's legal and political set-up. 18th amendment

has made president bind to consult with prime minister in dissolution of legislature and appointment of the judges and the head of the armed forces.

Major constitutional amendments in Pakistan's political history

① Eighth Amendment

This amendment was passed in 1985. It gave power to the president to dissolve the legislature. This amendment added Article 58(2)(b) in the constitution.

② 13th Amendment

This amendment was made to constitution when the prime minister was Nawaz Sharif (1997-9). It snatched power from the president to dissolve the national assembly of Pakistan.

③ 17th amendment

This amendment was made during Musharraf era. It again gave power to the president to dissolve the legislature.

④ 18th Amendment

This amendment which is important of all was made in April, 2010. It scrapped 58(2)(b) from constitution which had given the power to the president to dissolve the legislature.

Significance of 8th, 13th, 17th and 18th amendment

These amendments are significant because they ensued competition for power between the president and the prime minister of Pakistan. There is no