

Question no: 1

Significance of major constitutional amendments in Pakistan's political history

1. Introduction

The political system of Pakistan is constitutionally designated as federal parliamentary and democratic republic.

This means that Pakistan is bound to follow democratic principles where power is vested in people. But the government has struggled to establish a proper balance in its actions and thought. Due to this there have been certain amendments

to the 1973 Constitution. Technically there are 26 amendments but 23 amendments were made in constitution and three were not passed by parliament.

However some major constitutional amendments like the 8th Amendment, 18th Amendment, 14th Amendment, 25th Amendment - and also the 19th Amendment

hold a key aspect in shaping Pakistan's political culture.

The 8th Amendment ~~was~~ ^{gave} power to be vested in President's hand, and for that assembly was dissolved.

many times. Similarly the 18th Amendment holds a key space in Pakistan's federal structure. It devolved the power to the provinces. In short, these amendments have significantly impacted the country's legal and political framework.

II. Impact of major constitutional amendments in Pakistan's political history

(i) 8th Amendment Saw political turmoil

The 8th Amendment was passed by President Zia ul-Haq on 9th November, 1985. Major provision of this included the dissolution of National Assembly. This created a turmoil and many presidents after that used this power to create an uncertainty in the political framework. This amendment created an environment of political instability and due to this Pakistan faced several consequences. The people elected Prime ministers were ousted by the presidents. This hurt the democracy to a large extent.

and do to this we saw too many
Government's shaping the political structure
in a very short span of time. Short
time policies only hurt the political
and social structure of the country.
From 1988 to 1993, President Ghulam Ishaq
Khan made extensive use of the
article 58 2(b) to dissolve the
national assembly and then in 1996
President Farooq Leghari used this
against Prime Minister Benazir Bhutto.
It only debilitated the country and
democracy. There were uncertainty in
the minds of common people that
an elected prime minister are
being ousted by the presidents.
But these powers were taken away by
the thirteenth Amendment, but
again 17th Amendment was passed
which was the replica of 8th
Amendment and transformed the
Parliamentary system into a
semi-presidential one. But 18th
Amendment abolished the article
58(2) b.

(ii) Fourteenth Amendment ~ removed nearly all check and balances Fourteenth Amendment prevented Prime ministers from being dismissed by no confidence vote. This removed all check and balances on the prime minister. There was no way for the people to recall or there was no option for parliament to have a check and balance on the prime minister. Check and balances are necessary for the welfare of society. It is also crucial for the political framework of the country. Due to this we saw consequences of this. General Pervez Musharraf's coup in 1999 saw country to lose her potential right to elect the people. Moreover the 14th Amendment makes rent-seeking easier, thus contributing to the increasing influence of powerful interest groups in policy making.

(iii) 18th Amendment - a significant development in shaping a federal structure

The 18th Amendment completely changed the shape of federal structure of Pakistan. It devolutes the power to the provinces to a large extent. What has 18th Amendment done

(iv) Provincial Autonomy - a dream of Quaid-e-Azam

Quaid-e-Azam Muhammad Ali Jinnah was in favour of provincial autonomy from the very first day of his political career. ~~But~~ The 14 points of Quaid-e-Azam pretty reflect the need of provincial autonomy. He even in 1929 asked for provincial autonomy he mentioned in his 14 points that,

"A uniform measure of autonomy shall be granted to all provinces."

So this was a significant step and this holds a key place in the constitution of Pakistan that finally Pakistan's constitution gave provincial autonomy to its units

(b) Local government Setup. A key factor in development of social and political culture

With the introduction of article 140-A, the power was further devolved to the local governments. Local government holds a specific place in shaping the social and political culture. People are more closed to the counselor than to the parliamentarians. This promoted the true sense of democracy where they can elect their local leaders and they will have frequent contacts. So this way a significant steps in solving the problems of local people. We have the examples of other countries like UK and France where most of the developmental works are being carried out through these local government, they are kind of success both for government and people.

(c) Distribution of resources on multiple factors ~ removal of hegemony of one identity

According to the 1973 Constitution, resources are distributed according to the National Finance Commission before the 18th Amendment these finances were distributed according to population of province and centre was the major beneficiary but after 18th Amendment provinces get 57.5% of the total divisible pool and centre gets 42.5%.

Among provinces these resources are distributed over population, inverse population density, poverty and backwardness. These make

sure that no province is superior to the other and this created a feeling of nationalism among all provinces. And if all provinces are satisfied means the political and legal structure of the country is on the right path.

(d) 18th Amendment provided a framework of cases to elect Chief Justice of Pakistan ~ a step towards empowering Judiciary

Before the 18th Amendment, Judges of the Supreme Court and higher courts were elected by the President but now the judges and Chief Justice of Pakistan are elected by the Judicial Commission of Pakistan. This ensures transparency in the selection of judges making a clear road for the legal framework of the country.

(c) Promotion of democratic values 10-A, 19-A, 25-A

Democracy is basically a culture and it stands on the pillars like inclusive decision making, rule of law, accountability, protection of rights. These three fundamental rights, right to fair trial (10-A), right to information (19-A) and right to Education (25-A) were added to the constitution whose aim are to strengthen democratic and political culture in the society.

(f) Enhanced role of opposition
The 18th constitutional amendment has also enhanced the role of

opposition. It is to be considered as
second wheel of chariot of democracy.
The 18th Amendment has ensured that
the opposition ^{can} also play a key
role in the Parliamentary Committee
constituted for appointment of
Judges and Election Commission of
Pakistan.

So due to this amendment
the 18th Amendment holds a key
place in the political and
legal framework of the
country.

Q: 02

Introduction:

The true spirit of federalism is that in which sovereignty is constitutionally divided between a governing authority and constitutional political units. This was enshrined in the 1973 Constitution of Pakistan.

The Constitution promised a federal parliamentary system with provincial autonomy along with insurance of independent judiciary and fundamental rights. But unfortunately the Constitution of 1973 was not

implemented in letter and spirit but thanks to the 18th Amendment

the federal structure was

corrected. Pakistan is now a participatory federation with joint ownership of resources. It

took nearly 63 years to devise the near perfect formula. But still there exists clashes between provinces and the federal government. These relations have

Further deteriorated. However certain measures are needed to be taken for smooth functioning of ~~republic~~ federal structure.

II. Spirit of Federalism as enshrined in 1973 Constitution.

The 1973 constitution of Pakistan promised a federal structure of the government in which powers are equally vested in the centre and also among the provinces.

There were two lists originally for the distribution of power between federation and units.

The legislative list and the concurrent list. But after the 18th Amendment concurrent list was suppressed this was the list on which both the federal and province can debate but final working of federal will prevail.

The constitution ensured that there needs to be a parliamentary form of government with prime minister as its head of state

for the smooth functioning of the political system fundamental rights were also given to the citizens which included equality before law, freedom of movement, bar on retrospective punishment, right to life and freedom of speech.

Moreover keeping its true spirit of federalism the judiciary was kept independent and there was a Supreme Judicial Council where judges were accountable. Besides this National Finance Commission was established for distribution of Tax revenue between federation and provinces. In order to ensure the true spirit of federalism there needs to be:

(1) **Devolution of Power from center to provinces**

Federalism demands devolution of power from center to provinces. Although it has been promised by 18th Amendment still there have been issues regarding the distribution of

resources. There have been debates on certain subjects like education, health but all these belong to provinces and centre. Sometimes exceeds its limits.

(ii) **Power needs to be further devolved i.e. to Local government**

The true spirit of federalism lies in devolution of powers from provinces to local government.

Provinces are hesitant to devolve. Federalism demands devolution of power from higher units to lower units.

(iii) For the true spirit of federalism there needs to be a mechanism for enforcement of provisions of 18th Amendment.

Those provisions which remained unimplemented needs to be implemented in order to have true spirit of federalism.

This includes the article 25-A and the council of common interest should meet atleast once in 90 days as provided in the 18th Amendment.