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Subjective Part

Question-02

Explain the contribution of Aristotle -- present time.

Answer:

Introduction:

Aristotle was a student of Plato, who and he disagreed with him at certain points. Aristotle gave his philosophy of state based on the fact that every type of rule is interchangeable to others. Nothing is permanent. Moreover, he deemed Plato's philosophy as utopian and struck down Plato's concept of communism. The

discussion further elucidate
Aristotle's idea of governance and
state.

2. Background of Aristotle and the Base of His Political Thought.

2.1 Early Life

Born in Macedonia, Aristotle
his struggle as Plato's student
at the Academy. After Plato's
death, he came back to Macedonia
and established his own school
named Lyceum.

2.2 Opposition of Plato

Aristotle deemed Plato's philosophy
of Justice and Communism as
utopian. Therefore, it is said that:-

"Aristotle was a great but
an ungrateful student of Plato."

3. Tenets of Aristotle's Political Thought

Aristotle gave a rare view different from the one his master had.

3.1 Changing Forms of State

Aristotle told that no form of government can exist forever. It is the internal corruption that change the forms and the substance of state and government. For instance, monarchy will eventually change to tyranny with time and oligarchy to autocracy.

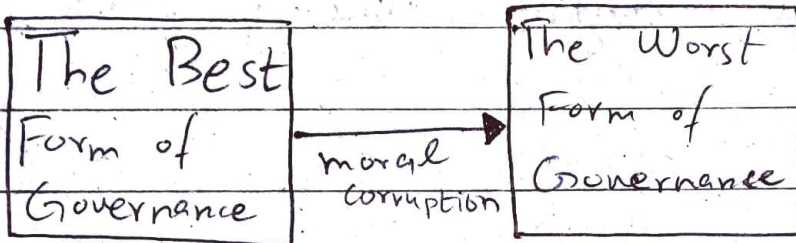
Monarchy → ~~Tyranny~~ Anarchy

Oligarchy → Autocracy

Democracy → Tyranny

3.2 Monarchy — The Best Form?

Aristotle deemed monarchy as the best form of governance but said that the best form will become the worst one if gone rogue.



Any form of government has the seeds of corruption within it, and it eventually corrodes to the negative alternate.

Similarly, the least good form of governance which is democracy cannot become as harmful as monarchy if gone rogue.

3.3 Aristotle's Concept of Slavery

Aristotle legitimised slavery by saying that people who are not mentally capable enough should

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serve their capable masters, so that masters can provide their valuable time in the affairs of state. Slavery, as per Aristotle is legitimate as if:-

- Slave can learn from his master
- Freed after having enough mental development.
- Can become a master himself after he has learnt enough.

4. Relevance of Aristotle's Political Thought in present Times

4.1 The Danger of Monarchy

Aristotle extolled the idea of monarchy as the best form of government as long as it is working without moral corruption. If gone rogue, it can lead to anarchy which is the

worst form. That is true in the current age as many of the states which honoured monarchy as the best form of governance, no longer second this idea.

↳ France gave up monarchy in the 18th century

↳ England took powers from monarch and gave ~~up~~ them to the parliament — Now monarch in the Great Britain is only a figurative head.

↳ Japan → monarch is only a figurative and symbolic head, and no powers are vested in the institution of monarchy.

Criticism:

Aristotle's political philosophy has gathered some criticism with respect to various times.

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↳ He tried to normalise slavery. Poor justification of slavery was provided.

↳ Slavery is hard to abolish and the master would not give up the slave, even if he had learnt and achieved the threshold of required education.

↳ No evidence that a form of government will be workable for a certain period of time, and would be deteriorated after.

Question - 03

Is the judicial review in Pakistan -- Argue.

Answer:

Introduction:

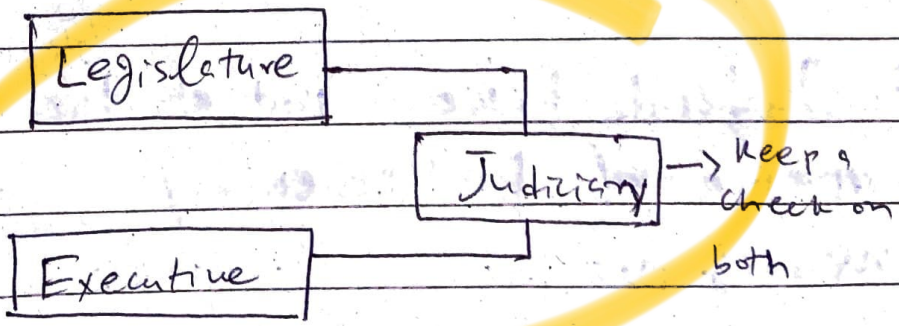
Judicial review is the practice utilised by courts to review the decisions made by authorities. In Pakistan, however, it is marred as a negative practice and a slur on the sovereignty of parliament and the law-making authorities. But, judicial review is the power vested in the top court which it utilizes to avert the abrogation of constitution of Pakistan, so that no law is made incongruous to the constitution. The further discussion further strengthens this point.

2. Necessity of Judicial Review

2.1 Concept of Separation of Powers

The concept of separation of powers was given by the political philosopher Montesquieu, and it is still being practiced to keep a check on the transgresses of executive and law-making authorities.

Mainly, it is a characteristic of presidential system where too much power is vested in one person, but it can be utilised to set the limit of authorities for public and state benefit.



2.2 Supreme Court: a protector of the Constitution of Pakistan

Supreme court defines and protect the constitution of Pakistan, and if any law is promulgated against the constitution, it is its duty to act swiftly to prevent the abrogation of the constitution.

2.3 Supreme Court: Protector of Fundamental Rights

Furthermore, Supreme court interprets and define fundamental rights of people. Any law averse to fundamental rights must be taken action upon by the one authority which have the power to do so.

3. Judicial Review not at the Expense of Parliamentary Sovereignty:

3.1 Meaning of Democracy

Pakistan is a democratic country, and democracy finds its meaning along the lines of 'rule of law'. Hence, law must prevail which is in accordance with the constitution.

3.2 Judicial Review is not an Order

Judicial review is not an order by the top court to avert the decision or an action against parliament to do otherwise. It is a review demanded by the court to check the laws' abidance with the constitution.

3.3 Parliament is Sovereign by the Will of the People

It is also the case that the parliament is sovereign because of the people will of

Pakistan. Parliamentarians are protected because they are the elected protector of their rights. They get their power from the people, and any law which is against people of Pakistan or their long term interest must be subjected to judicial review.

3.4 Recent Examples

Recent attempt of Supreme court to have elections on February 8 could be regarded as one such example. Although, senate has passed a resolution against the February 8 date, but Supreme court advance to save the early elections, promote the political stability and ease the plight of people justifies that judicial review is not always at an expense in Pakistan.

Conclusion

The idea of separation of powers though mainly supported in the presidential system but it is still necessary to keep a check on the law-making bodies. Judicial review is one such example. Though a prerogative of the top court, it can prove beneficial for the constitution and people of Pakistan without harming the parliamentary sovereignty.

Section - B

Question - 08

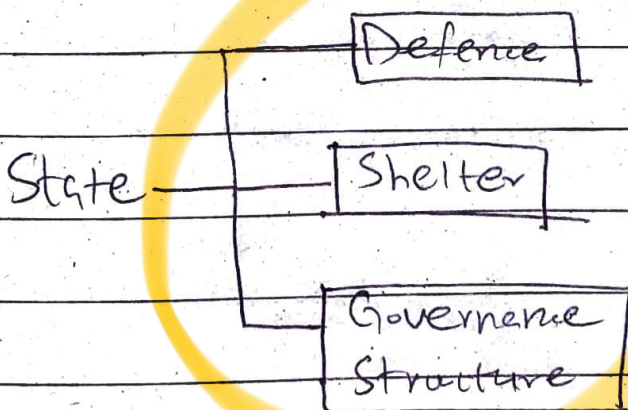
1. Introduction

With the formation of state institution, certain rights and duties have been obligated on both people and the state. This includes Civilian right to economy, liberty and civil rights. To ensure this, Civilian has some duties as well. Moreover, state has no legitimate right to use force. Further, with regard to this question the phenomenon regarding the origin of state has been expounded as a part of this discussion.

2. Legitimate Right to Have a Share of Our Income

2.1 State as a Provider and Protector

State has some rights and some duties. Duties of state are to provide and protect its people. Moreover, a state provides homes, facilities, and governance structure which does not come for free. Hence, taxes are legitimised in case of two-way relation between man and the state.



2.2 Autonomy of States With Respect to Neo-liberalism

Pre-1930. era had to a fair involvement in the civilian businesses. However, with the

The rise of neo-liberalism, state involvement in the civilian economy has fairly reduced and is only limited to collection of taxes.

The phenomenon of neo-liberalism was promoted by the president Roosevelt, and Margaret Thatcher in the UK which later spread to the rest of the world.

Neoliberalism demand a reduced involvement of state in civilian business affair, and collection of fair taxes by the government.

2.3 Laissez-faire Economy and Free Market Structure

Another phenomenon synonymous to neo-liberalism is that of Laissez-faire economy, which

free market and individual autonomy with respect to private businesses. State demands a fair share in return of provision of defence, state's land, and governance structure.

3. No Right of Using Force

2.1 Abrogation of Fundamental Rights Charter

No state must unlawfully use force upon civilians to get from them any benefit.

Use of force by state is not congruous with earlier and latest charter of human rights:-

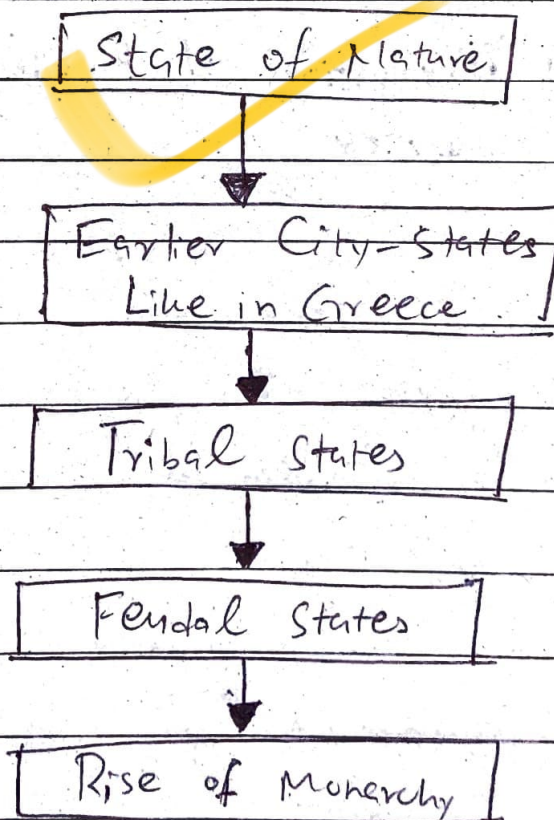
- American Declaration of Independence - First 10 articles
- French Revolution on Human Rights (1789)
- Universal Declaration on Human Rights (UNDHR)

4. Origin of the State

State as that seen now is an outcome of centuries of struggle and power shifts.

4.1 Earlier Nature of State

Earlier states have gone through propagation to become what is seen now:-



4.2 Rise of Monarchy

15-18th century saw a rise in monarchy because of the promotion

of ideas of the king's divine right. Monarchy ruled a greater part of the world until it was ruled out by the conflict of parliament versus the king.

4.3 Rise of Democracy

After people got rid of the monarch, the idea of the rule by the will of the people was promulgated, and the most closest of its form available was democracy which was adopted. Later, with the rise in economy, more people came asking for rights which led to the current state democracy.

"There is a fair evidence of the rise of democracy that when more people became economically empowered, they wanted a share in governance." ~ Francis Fukuyama
 "Political Order & Political Decay"

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Conclusion

In a nutshell, taxes are legitimate form of money that governments make from people in return of providing services to the civilians. But, right to use of force is nowhere justified. Use of force is against the declaration of rights and human dignity.

Question-06

How far 18th amendment ..
Critically evaluate.

Answer:-

Introduction

18th amendment in the constitution of Pakistan was an attempt to revisit the federation structure of the country and to provide greater provincial autonomy to the provinces. It has revised 103 articles and multiple provisions to ensure the provincial autonomy are added. But 18th amendment has still not delivered the promise of power devolution because the centre is still extremely strong. Discussion ahead further builds on that.

2. Key Features of 18th amendment

The 18th amendment holds significant value in the history of Pakistan because it proposed major changes in the constitution.

It has passed by Senate in April 2010, it has following features:-

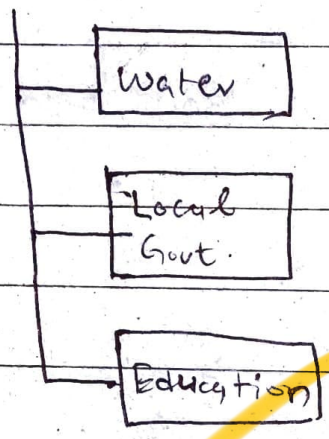
- Also, called as mini-constitution
- It altered 103 articles
- Done away with presidential powers

3. Alteration of Existing Structure of Federation

3.1 Aim: Increased Provincial Autonomy

18th amendment's main aim was to give provinces a greater share of independence, and Centre to revise its existing powers and dissolve powers to

provinces. 18th amendments gave certain areas of governance to provinces like.



3.2 Abolishment of Concurrent List

1973 Constitution had 3 list in the start.

- ↳ Federal legislative list
- ↳ Provincial legislative list
- ↳ Concurrent legislative list



Both could make laws on concurrent list but obviously centre had a precedence.

18th amendment abolished the concurrent list, leaving only two lists.

3.3 Council of Common Interest ^(CCI) and the PM

Prime minister was made the chairman of CCI, with 4 Chief minister from each province and 3 other members.

3.4 Allocation of Resources

Formula for allocation of resources was devised with a greater share given to population.

Population — 82.13%.

Inverse population — 2.5%.

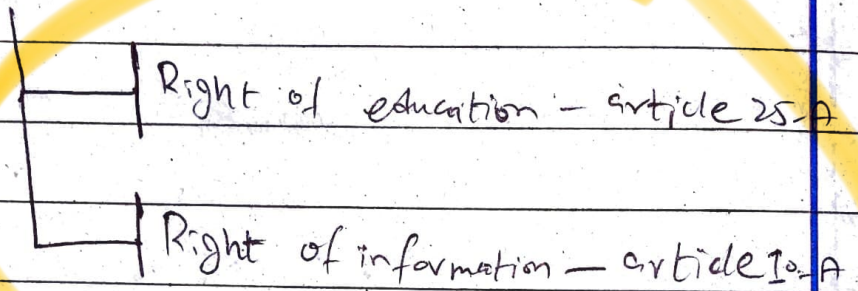
3.5 Compulsory Local Govt.

Local governments were made essential for all the provinces.

3.6 Promulgation of Basic Rights

Basic rights were added and promoted in the 18th

9th amendment. Right to education, and right of information were added in the constitution.



4. How Far Federation is altered.

4.1 - Still a powerful centre

The centre even after 18th amendment is still very powerful. 1973 contained the greatest provision of power, i.e., 114 than the previous constitutions.

4.2 Failure in Power Devolution

Power devolution is still not functional. No province at the moment has a properly functioning local government.

4.3 Population-based Resource allocation

Population of a province has a major share in the formula of resource allocation.

5. Conclusion

In a nutshell, 18th Amendment was an attempt to give the provinces more provincial autonomy, and fairly valuable provisions were made. But failure in some key areas has left the centre still so strong without much benefit.