

Answer to Q.2

Introduction

The recent changes in Constitution of Pakistan through 26th amendment shocked many: scholars, political scientists, lawyers, and masses.

Some of the major changes which were made hastily and behind closed doors are:

restructuring of Judicial Commission, changing the method of appointment of judges, formation of Constitutional Bench, removal of suo moto powers, right to healthy environment, elimination of siba, amendment for Election Commission. These amendments will greatly impact the political system. It will jeopardise the principle of separation of powers, will undermine the system of checks and balance, will empower the executive leading to concentration of power.

The trend of amendments in Pakistan versus the trend of A. in America

The US constitution was made in 1787. Till now, 27 amendments are made. While in Pakistan's Constitution, which is around 53 years old, 26 amendments have been made.

Moreover in the US, amendments are made by representative governments, in Pakistan, most of them were made exclusively behind closed doors.

Changes made in Constitution of Pakistan through 26th amendment

① Restructuring of Judicial Commission

Before: 5 judges, Chief Justice and 3 executives nominated the new J. ^{judges for SC and HC.} this way,

Judiciary was more powerful

Now: Two members from National Assembly, two members from Senate and one woman or non-Muslim to be nominated by Speaker of NA, The Law Minister, the Attorney General of Pakistan and a representative of Bar were already members of JCP and remain so

② Formation of Constitutional Benches

The JCP has also been given the power to determine and nominate Constitutional Benches within Supreme Court and High Court. These benches shall have exclusive jurisdiction over matters involving interpretation of Constitution and enforcement of fundamental rights.

③ Appointment of the Chief Justice of Pakistan

"Special Parliamentary Committee" (SPC), consisting of eight members of NA and four of the Senate, has the power to nominate the CJP from the ~~most~~ ^{three} among the most senior judges of Supreme Court.

④ Removal on the ground of "inefficiency"

JTC, Supreme Judicial Council may recommend judges of SC and HC for removal on the ground of inefficiency. However, the term inefficient not defined.

⑤ Removal of suo moto powers

The Supreme Court's ability to take suo moto action has been transferred to judicial committee.

⑥ Parliamentary Oversight

The ability of courts to question recommendations from cabinet to the president or PM has been limited, and parliamentary oversight has been increased.

⑦ Right to a healthy environment

Article 9A has been introduced, which provides right to clean environment.

⑧ Elimination of Riba

By January 1, 2028, "as far as practicable"

⑨ Monetary issues of Cantons

Crisis: Sindh High Court verdict:

Cantt. not allowed to collect ^{property} tax, as it's under province

Solution: Through legislation, Cantt's local taxes now made federal domain.

Effects of 26th amendment on the political system of Pakistan

① Principle of separation of powers threatened

"26th amendment is a blow to the independence of judiciary." (International Commission of Jurists). One organ is allowed to interfere in the jurisdiction of another.

② Checks and balance undermined

These changes allow for direct political influence over judiciary. Judiciary is defanged to hold astrayed politicians accountable.

③ Executive empowered: power concentrated

"These amendments subjugate judiciary, and bring it under the control of executive"

- Santiago Canton.

Power which originally belonged to judiciary are now placed in executive hands

④ Door of abuse of law opened to political elite

Judiciary's function is to check if Constitution being followed with it made subservient political elite free to take law into hands

⑤ A step towards absolutism, and away from representative system

Power is in few hands.
Public is not consulted or informed.

⑥ Justice, law, and order kidnapped by the parliamentary dictators

"When executive and legislative powers are united, there can be no liberty"

- Montesquieu

① Plant of democracy crushed under the feet of power hungry leaders

18th Amendment 2010	26th Am. (2024)
77 meetings, over 10 months, by Parliamentary Committee	Was not referred to parliamentary Committee

(PILDAT)
This amendment is a blow to democracy.

Conclusion

To sum up, the 26th amending which changed the power structure, defanged the judiciary, and empowered the executive has adverse repercussions. It is a great threat to already fragile democracy of Pakistan. Without independent judiciary, the other organs are free to abuse law and bend it to use it in their own favor.

Answers to Q. 3

"I regard it wholly inadmissible that any person should participate in the suffrage without being able to read"

- J. S. Mill

Introduction

Functioning robust democracy requires enlightened citizenry, and also able, competent, educated and morally sound political leadership. Minusing education from politics, can lead to democracy's death. Education and democracy go hand in hand. It is important to avoid mob rule, for public's awareness regarding their rights and duties, for choosing better political leadership, to recognise the traps of propoganda and populism in politics, and for the smooth functioning of democracy.

In addition, it is important that a politicians are morally grounded so that they do not let their petty interests clash with national interests; so that they are responsible, devolve power, shun jobbery, corruption, and dynastic politics.

Functioning robust democracy requires healthy participatory fellowship

For a number of reasons:

① **To avoid mob rule**

Many political scientists warned about the dangers of democracy without healthy citizens.

② **Democracy cannot work without participatory politics**

To democracy to work

participation of all is the prerequisite. When no one is left behind, that is when real democracy exists. At one occasion, Euripides said, "He who has good advice to give to the city, let him come forward."

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Does participatory politics exist in Pakistan?

Masses participate in politics in different ways. One way is through election.

Voter Turn out in Pakistan	
2023	50.14%
2024	47.6%

Non existence of student unions in Pakistan

Universities, in all the civilised democratic state, are great platform, or a

nursery for competent political leadership. However, they are very rare in Pakistan.

Political Leadership for all or for few elites.

Pakistani politics is cruel to an ordinary (in sense of wealth) politician. Only those are successful, generally, who are filthy rich, or those who have a political history. This promotes dynastic politics which is quite visible in Pakistan's politics, and discussed in detail in Emma Duncan's *Breaking the Labyrinth*.

③ For awareness of rights and duties

If rights of a citizen are violated, he can raise voice only if he is informed about them.

④ To choose the most deserving leader

A citizen who is illiterate cannot choose the right person
"Knowledge is virtue"
- Socrates

⑤ To save one's self from becoming prey to propaganda and popular politics

Pakistani politics is badly impacted by propaganda, especially on social media

⑥ For better representation and popular sovereignty

When masses raise their voice, express their choice, and cast vote, choose the best candidate from their constituency, they act responsibly, and are likely to get a good representative

Functioning robust democracy
requires morally grounded
leadership

For various reasons

① Place national interest
~~that~~ ahead of petty
selfish interests

Pakistan lacks political
leadership, which is only chasing
its own interests. Therefore,
democracy is not working well.

② Responsible to public

Morally sound and
educated political leaders
know that they are responsible
to citizens, are supposed to
serve them

③ For good governance

From morally corrupt,
one can only expect mis-
governance. For good governance,
smart policies, and efficient execution,
right men are needed.

④ Devolution of power

Power sharing is important to grow democracy. Only good leadership willingly shares power.

⑤ To work as a representative and not a master

A good leader knows that he is not a master, and citizens are not slaves.

⑥ Leads whole nation, not specific fraction

Politically narrow minded serves only 'his people' while enlightened leader serves whole nation.

⑦ To be not seduced by greed of chair

Morally corrupt tries to expand his power, and extend his rule. Only morally grounded leadership leads to improve the condition of state.

Conclusion

To sum up, for strong functioning democracy, enlightened citizenry and its participation is needed. As J S Mill puts it, "universal teaching must precede universal enfranchisement." Therefore it is important to educate the public, so that it can participate in smart manner.

Moreover, democracy cannot flourish without robust, healthy, competent, enlightened, moral, and selfless leadership.