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Batch : 63

Subject : Pakistan Affairs.

Q. NO. 2. Discuss the main changes made in the Constitution of Pakistan through Twenty-Sixth amendment. What effects it shall have on the political system of Pakistan. Elaborate.

1. Introduction:-

The 26th constitutional Amendment of 2024, also called the constitutional Package, focuses on judicial reforms. It limits the chief justice of Pakistan's (CJP) term to ~~three~~ years, curtails the Supreme Court's suo motu powers, and gives the prime minister the authority to select the CJP from among the three most senior judges of the Supreme Court.

2. Legislative Process and Political Dynamics

2.1. Senate Approval:- Passed with a two-thirds majority in both the Senate and the National Assembly.

2.2. Initial Opposition:-

The PML-N's earlier attempt to pass the bill failed due to opposition from the JUI-F.

2.2. Special Parliamentary Committee:-

Formed with members from all parties, including PTI, to discuss the amendments.

3. Key changes to the CJP's Appointment Process:-

3.1. Amendments to Article 175A:-

- i. The CJP will now be appointed from among the three most senior SC Judges upon the recommendation of a special Parliamentary Committee.
- ii. The Prime Minister forwards the name recommended by the committee to the President for appointment.

3.2. Special Parliamentary Committee Structure:-

- i. 12 members, 8 from the National Assembly and 4 from the Senate.
- ii. Proportional representation of Parliamentary Parties.
- iii. Meetings will be held in camera and the committee will decide by a two-thirds majority.

Use subheadings;
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3.3. CJP's Term Limit:-

The CJP's term is set at three years, regardless of age.

4. Changes to the Supreme Court's Jurisdiction:-

4.1. Reduction of Suo Motu Powers:-

The SC cannot initiate suo motu proceeding on its own beyond the scope of applications filed under Article 184.

Mention the article numbers amended as references

4.2. Case Transfer Powers:-

Under Article 186A, the Supreme Court now has the power to transfer cases between high courts or take them up itself.

5. Modifications to the Judicial Commission's Role:-

5.1. Direct~~ed~~ Nominations to the Prime Minister:-

- i. The judicial commission of Pakistan will now send judge nominations directly to the Prime minister.
- ii. Omission of the older eight-member parliamentary committee structure.

5.2. JCP Rule-making Powers:-

The JCP can establish criteria for the evaluation and fitness of Judges.

6. Political Disputes and Resolutions:-

6.1. Federal Constitutional Court Proposal:-

The PTI opposed the idea of a Federal constitutional court and advocated for a constitutional bench, which was incorporated.

6.2. JUI-F Mediation:-

Maulana Fazlur Rehman of JUI-F played a critical role in mediating opposition concerns.

6.3. Reduction in Amendments:-

- i. Initially, 56 amendments were proposed but were reduced to 27 in the final version.
- ii. The recent amendments to the constitution of Pakistan introduce significant changes across various articles, aimed at enhancing legal, environmental, and judicial frameworks. Here's a detailed overview of the key amendments.

7. Amendments to Article 203 D:-

This clause enables the Federal Shariat Court to determine whether a law contradicts Islamic injunctions. A new provision requires that any appeal against decisions made after

the 26th amendment must be resolved within 12 months; otherwise, the decision will take useless the supreme court suspends it.

2. Revisions to Article 229:-

Changes now allow any parliament house or Provincial assembly seek the council of Islamic ideology's advice on Islamic one-fourth of its total membership requests it, reducing threshold of two-fifths.

9. Elimination of Riba:-

In Article 38, which addresses social and economic welfare, the language has been modified from "eliminate riba as early as possible" to a more definitive mandate to "eliminate riba completely before January 1, 2028."

10. Introduction of Right to a Clean, Healthy Environment:-

A new Article 9A guarantees every individual the right to a clean, healthy, and sustainable environment.

11. Updates to the Fourth Schedule:-

The fourth Schedule has been amended to clarify the responsibilities of local self-government in Cantonment areas, specifically regarding local taxes, fees, and other charges.

12. Amendments to Article 48:-

The President's ability to act on advice has been clarified, emphasizing that inquiries into whether advice was given by the cabinet or Prime minister are not subject to court review. This removes the previous inclusion of ministers in such inquiries.

13. Updates to Article 215:-

It allows the chief Election Commissioner and ECP members to remain in office until their successors are appointed, regardless of their term's expiration.

14. Clarification in Article 255:-

This article specifies that if a required oath cannot be taken before a designated person, it can be taken before another person nominated by the chief Justice of a High Court or chief justice of Pakistan in other cases.

15. Revision to Article 259:-

The article updates the categories for awards conferred by the President, ~~replacing~~ replacing "nursing" with "Science technology, medicine, arts, or public services".

16. Twenty-six Amendment effects on Political system of Pakistan:-

16.1 Judicial Independence:

The amendment reinforced the independence of the judiciary, ensuring that judicial appointments and promotions are free from political interference, thus enhancing the rule of law.

16.2. Human Rights Protections:-

Additional protections for civil liberties and human rights, including, aiming to safeguard freedoms related to speech, assembly, and association.

16.3. Strengthened Parliamentary Committees:-

The amendment empowers parliamentary committees to oversee judicial appointments, ensuring greater transparency and accountability.

16.4. Reduced Judicial Intervention:-

By limiting the Supreme Court's

Add and highlight references/examples against these arguments

So, ~~more~~ powers, the amendment prevents judicial overreach and promotes Parliamentary supremacy.

16.5 Increased Flexibility:

The amendment allows for greater flexibility in coalition decision-making, enabling partners to negotiate and compromise more effectively.

16.6. Enhanced Parliamentary oversight:-

Strengthened Parliamentary Committees and increased representation in key decision-making bodies enable the coalition government to exert greater control over policy decisions.

16.7. Improved Inter-Institutional Relations:-

The amendment promotes cooperation and ~~coordination~~ coordination among institutions, facilitating smoother functioning of the coalition government.

17 → Conclusion:-

The 26th Amendment to the Constitution of Pakistan has introduced significant changes to the country's judicial, parliamentary, and executive frameworks.

While its effects on the political system are multifaceted and contentious, one thing is that this amendment marks a significant shift in Pakistan's constitutional landscape with far-reaching implications for the country's governance and institutions.

Q. No. 4:

Critically evaluate the Sir Syed's trinity of ideas i.e. Loyalty towards Britishers, devotion to education and aloofness from politics.

1. Introduction:-

Sir Syed Ahmad Khan a visionary Muslim reformer, played a pivotal role in shaping India Muslim thought and identity during the British Raj. His trinity of ideas loyalty towards the British, devotion to education and aloofness from politics was a strategic response to the socio-political context of 19th-Century India.

2. Sir Syed Loyalty towards the British:-

Pros:-

i. Protection from Persecution:-

Sir Syed's loyalty helped protect Muslims from British retribution following the 1857 Indian Rebellion.

ii. Security and Stability:-

Cooperation with the British ensured temporary peace and stability for Muslims.

iii. Access to Western Education:-

Loyalty paved the way for introduction of Western education, modernizing Muslim intellectual and cultural landscape.

iv. Economic Benefits:-

Collaboration with the British led to increased economic opportunities and employment for Muslims.

v. Influence on British Policies:-

Sir Syed's relationship with the British allowed him to advocate for Muslim interests and influence policy decisions.

vi. Prevention of Further Conflict:-

By supporting the British, Sir Syed helped prevent further conflict and bloodshed.

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→ Cons.

i. Legitimization of colonial rule:-

Sir Syed's loyalty validated British authority, undermining India self-rule aspirations.

ii. Criticism from nationalists:-

Many Indian nationalists viewed his loyalty as appeasement, weakening the independence movement.

iii. Limited autonomy:-

Collaboration with the British restricted Muslim autonomy and self-governance.

iv. Compromise on Islamic values:-

Some critics argue that Sir Syed's loyalty led to compromises on Islamic values and principles.

v. Limited representation:-

Sir Syed's focus on education and social reform diverted attention from political representation and empowerment.

vi. Reinforcement of colonial narrative:-

Loyalty reinforced the British narrative of superiority and Muslim inferiority.

3. Sir Syed's Devotion to Education:-

Pros:

i. Modernization of Muslim Education:-

Introduced Western education, revitalizing Muslim intellectual and cultural landscape.

ii. Aligarh Muslim University:-

Founded in 1875, AMU became a hub for Muslim intellectual and cultural development.

iii. Promotion of English Language:-

Recognized importance of English for economic and intellectual growth.

iv. Social Reforms:-

Education helped challenge orthodox practices and promote social reform.

v. Emphasis on Science and Technology:-

Encouraged Muslims to pursue science, technology, engineering, and mathematics fields.

=> Cons :-

i. Cultural Compromise:-

Adoption of Western education raised concerns about cultural erosion and loss of Islamic identity.

ii. Limited Accessibility for Women:-

Education for Muslim women remained limited, perpetuating gender disparities.

iii. Limited Job Opportunities:-

Education did not necessarily translate

to employment opportunities.

iv. Westernization of Muslim Thought:

Risk of cultural assimilation and loss of Islamic values.

v. Criticism from Orthodox Elements:-

Some Muslims saw Western education as a threat to Islamic traditions.

4. Sir Syed Aloofness from Politics:

⇒ Pros:-

i. Temporary Strategy:-

Avoiding politics allowed Muslims to regroup and rebuild after the 1857 rebellion.

ii. Safety from British Backlash:-

Reduced risk of persecution by maintaining distance from anti-British movements.

iii. Economic development:-

Encouraged Muslims to focus on economic growth and self-sufficiency.

⇒ Cons:-

i. Dependence on British Patronage:-

Muslim progress reliant on British support.

ii. Delayed Muslim Empowerment:

Political abstinence hindered Muslim empowerment and autonomy.

iii. Limited Scope for change:-

Social reforms alone could not address deeper structural issues.

5 → Overall evaluation:-

Sir Syed's trinity of ideas was a complex response to the challenges faced by Indian Muslims during the British Raj.

i. Promoted modernization and education.

ii. Ensured temporary security and stability.

6 → Conclusion:-

The evaluation of Sir Syed's trinity of ideas remains relevant today.

i. The need for balanced approaches to modernization and cultural preservation.

ii. The importance of political participation and representation.

iii. The ongoing debate on Muslim empowerment and autonomy in India.