

Critically assess the 25th and 27 amendments in Pakistan in the context of military dominion and erosion of Judicial norms. How have these amendments affected governance, institutional autonomy and the balance of powers?

ANSWER

1. Introduction

Constitution of Pakistan always tilted towards the regime of its protectors. Historically, from the very most start of Constitution with the years of prolonged delay till now it is amended a lot of time, officially it is assent "27" times. Some time it is amend for gaining power and some time for dissolution. Experts says that Pakistan's constitution amendments are product to cover all political interest of ruling class with minor addition of ruled class. The same way 26th and 27th amendment

stands on the peak of fiscal year (2025). According to International right it is viewed as sword on judicial independence and inequality in accountability.

2. Military dominance through 26th and 27th Amendment

The following 26th and 27th amendment empowered the role of Armed forces specially, the Commander of Armed forces. Military dominance can be viewed as both positive and negative impacts. Strengthen the role of Military is a modern step if it over sight the civilians, but if it overrides the ~~rules~~ civilians it will more authoritarian in nature instead of modernization.

a) Introduced the New office of CDF through 27th amendment

The New amendment (27th) announced a new office of Chief of Defence Force (CDF) by withheld official assent through legal process.

b) Ranking and composition of CDF post

The authority holder of (CDF) officer will be the head of Army staff (COAS), and from 27th amendment, the chief of Defense force will be the single head of all three armed forces including army, navy and Airforce.

3. Erosion of Judicial Norms through 26th and 27th Amendment

Judiciary of a state, is an important foundational pillar, with the beauty of independence, and self autonomous power. But, when the external actors, often its natural decorum, with cutting the edge of Judicial independence and autonomous power the beauty of Judicial structure compromised.

a) 26th Amendment: A sword on Judicial activism

Once, the Judiciary use their power to ineffect with the matters being ignored or marginalized

Now, limits with the Supremacy of Parliament. From now Courts need to approve Judicial activism through parliament, then it will be exercised.

b) Established New Constitutional Court (FCC)

Reduction in the power of (SC) Supreme Court in constitutional matters, and Enhancing role of new (FCC) Federal Constitutional Court reflects the shifting of power and diminution of Supreme Court status.

4 Amendments 26th and 27th: Effects on Governance institution autonomy

Amendments of Pakistan Constitution always remains a debate over the power shifting between civilian structure and military regimes. This impact is also visible in 26th and 27th amendment where the Supremacy of Parliament increased above the judicial autonomy. The effects of Amendments on Government institution can be viewed

as positive and negative impacts

The Positive features are:

a) Judicial accountability

Judicial accountability through parliament oversight is a modern ^{step} impact because unchecked power corrupt absolutely as Lord Acton says "a power corrupts, and absolute power corrupts absolutely"

b) Efficiency in Constitutional matters

Before 27th amendment, the burden of Constitutional affairs are headed to SC, Supreme Court of Pakistan. Now it is shifted towards the new FCC, Federal Constitutional Court. This step of modernization makes the ineffective matters of Supreme Court; due to over burden, will now headed to FCC.

c) Parliamentary Supremacy on appointments

Fair and transparent



appointment of Judges through judicial Council along with the extended members of parliament it is also a modern step and subject of Democratic book.

The Negative Features are:

- a) Risk of executive capture in appointments of Judges
- b) Undermines the Supremacy of Judiciary in autonomous independency
- c) Reduced the power of Supreme Court
- d) Military empowerment can undermines the civil supremacy
- e) Centralization of power becomes hurdle to liberty

"Liberty cannot exist without separation of power" — Montesquieu

5. Conclusion

"Once the Constitutional rules become negotiable, Government loose discipline and Institution loose Credibility" → Hamid Khan
The line is taken from the book political and constitutional history of Pakistan where author argues of how military regimes, political instabilities and constitutional framework stunted the growth of Pakistan. The same way marking from history, the amendment of Pakistan Constitution; 26th and 27th are sword on judicial independence, and credibility, making the elites more far from accountability and checks of Constitution.