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DATE 10-Dec-2025

Pakistan affairs

Qno 4: How 27th constitutional amendment affect the trichotomy of power in Pakistan? discuss.

Ans

"New amendment would centralise power in the executive and military, prompting warnings of a weakened judiciary."

The Constitution of the Islamic Republic of Pakistan (1973) has been amended several time to adjust the balance of powers between the federation and the provinces, redefine institutional roles, and respond to changing political and security realities. The 27th Amendment follows the 26th Amendment which has passed out October 2024.

After gaining a parliamentary majority the second Shehbaz Sharif government proposed the 27th Amendment to address a set of issues, such as judicial structure (including the formation of the Constitutional Court), federal-provincial relations, military command arrangements (particularly the revision of Article 243), and top appointments in the armed forces. Supporters describe 27th amendment as a package of "modernizing" institution.

→ Impact on Trichotomy of Power in Pakistan:

The 27th Constitutional Amendment of Pakistan significantly affected the trichotomy of power by centralizing power in the executive and military, which in turn weakened judicial independence.

Legislative - Executive Relations (in the context of the 27th Constitutional Amendment):

The legislative - executive relation refers to the interaction and balance of power between the legislature (parliament) and executive (government / president / prime minister) in a political system. In Pakistan, this relationship is crucial for the functioning of democracy and the separation of powers.

Key aspects:

→ Parliamentary Oversight:

→ The amendment strengthened the legislature's ability to oversee executive actions, requiring parliamentary approval for significant executive decisions (policies, appointment).

→ This enhances checks and balances ensuring the executive remains accountable to elected representatives.

→ Executive Power:

→ Certain executive authorities, such as emergency powers or unilateral legislative

actions, were curtailed or made subject to legislative consent.

→ The amendment aimed to prevent executive overreach and promote collaborative governance.

3> Legislative Process:

→ The amendment may have introduced procedural changes in lawmaking, requiring executive proposals to undergo rigorous parliamentary scrutiny.

→ This affects how policies are formulated and implemented emphasizing collective decision-making.

→ Impact on Governance:

→ Improved balance can lead to more transparent and accountable governance.

→ Potential friction may arise if the executive perceives legislative oversight as obstructive or if parliament delays executive initiatives.

The 27th amendment sought to rebalance this by empowering the legislature, thereby reinforcing democratic norms and institutional harmony.

Revision of judicial jurisdiction:

Several constitutional articles that define the Supreme Court's original jurisdiction and constitutional benches were amended to realign which court handles what kind of constitutional matter. Critics say this effectively

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reduce the Supreme Court's reach. These judicial changes are central to the 27th constitutional amendment's legal engineering.

→ The amendment affected judicial independence by altering the appointment power of judges, involving the executive and legislative in the selection of judicial members.

→ It expanded the jurisdiction of certain courts impacting the balance between judicial review and executive / legislative authority.

→ It reinforced the principle of checks and balances, preventing concentration of power in the executive.

Alterations to the Balance of Power:

→ Executive-Military Supremacy:

→ The amendment elevates the Army Chief to a constitutionally protected Chief of Defence Forces (CDF), unifying control over the Army, Navy and Air Force.

→ The post of Chairman Joint Chiefs of Staff Committee (CJCSC) was abolished, consolidating military authority.

→ Lifetime immunity and five star rank codify a de facto executive-military hierarchy, reducing the Prime Minister's

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and Parliament's effective control over military actions.

→ Judiciary Weakening:

→ A Federal Constitutional Court (FCC) replaced the Supreme Court's original constitutional jurisdiction, relegating it to an appellate role.

→ Judges can now be transferred without consent and courts cannot review constitutional amendments affecting the military, eroding judicial oversight.

→ This reduce the judiciary from a co-equal branch to a subordinate institution compromising the traditional separation of powers.

→ Legislative Marginalization:

→ Parliament's authority becomes largely symbolic, as the amendment institutes structural supremacy of the military and executive over all legislation and judicial checks.

→ Civilian accountability is curtailed; while elected officials face political scrutiny, military leaders enjoy constitutionally-guaranteed impunity.

Constitutional Implications:

→ Separation of Powers Undermined:

The amendment effectively merges executive and military authority

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undermining the trichotomy principle.

→ Rule of Law Erosion:

Life time immunity for military officers allows constitutional impunity, replacing the rule-based governance with command and control dynamics.

→ Pratorian State Emergence:

Pakistan transitions into a militarized constitutional order, where the military is sovereign and civil institutions are subordinate, formalizing long-standing patterns of military influence.

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Conclusion:

The 27th Constitutional Amendment represented a historic centralization of power in Pakistan's military, codified through life-long privileges unified command over all armed forces and the establishment of judiciary structurally aligned with executive interests. The traditional balance of the three pillars - executive, judiciary and military is now heavily skewed toward military authority effectively weakening civilian oversight and provincial autonomy. The amendment thus reconfigures

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Pakistan's trichotomy of power, embedding systemic protections that sustain military dominance while constraining the independence of the judiciary and limiting the counterbalance of elected governance.

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