

Question : 2

Introduction

The U.S. Constitution established a **tripartite system of government** to prevent the concentration and abuse of power. By dividing authority among the executive, legislative, and judicial branches, the framers sought to create a framework where each branch could **check and balance the others**. This system was inspired by the fear of **tyranny** and a desire to safeguard liberty and democracy. Its design has influenced numerous countries and provides valuable lessons for Pakistan, which continues to grapple with executive dominance, weak judicial independence, and political instability.

1. Structure of Checks and Balances

1. Legislative Check on the Executive

(a) Congress can override presidential vetoes with a two-thirds majority.

(b) The Senate approves appointments of judges, cabinet members, and ratifies treaties.

(c) Congress controls the budget and can conduct inquiries into executive actions.

II. Executive Checks on the Legislature

(a) The President can veto legislation and issue executive orders to guide policy implementation.

(b) Executive power can influence legislation through policy proposals and negotiations with Congress.

III. Judicial Checks on Both

- (a) The Supreme Court can exercise judicial review, striking down unconstitutional laws or executive actions.
- (b) Life tenures for federal judges ensures independence from political pressures, allowing impartial adjudication.

IV. Mutual Oversight and Interaction

- (a) Each branch has tools to monitor and constraint the others, creating a balance of power.

Example: The Watergate scandal highlighted how judicial review, legislative inquiry, and media oversight together curtailed presidential abuse.

2. Effectiveness of the System

i. Strengths:

- a) It limits unilateral decision-making and encourages compromise.
- b) It protects individual rights through independent judiciary.
- c) It Ensures transparency and accountability via legislative oversight.

ii Limitation:

- (a) Partisan polarization can weaken the effectiveness of checks.
- b) Gridlock may occur when branches are controlled by opposing parties, delaying action.

3. Lessons for Pakistan

i. Strengthening Separation of Powers

- (a) Pakistan often faces executive dominance over legislature and judiciary.
- (b) Constitutional reforms could clearly define the boundaries and responsibilities of each branch.

ii. Judicial Independence

- (a) Life tenure or guaranteed security of judges, as in the United States, can prevent political manipulation of the judiciary.
- (b) Empowering the judiciary to review executive and legislative actions would enhance accountability.

iii.

Executive Accountability

- a. Oversight mechanisms such as parliamentary committees, impeachment provisions, and public reporting could prevent misuse of power.
- b. A culture of institutional checks must be nurtured to reinforce formal provisions.

iv.

Role of Civic Awareness and Media

Transparent institutions alone are insufficient. Active media and civic engagement play a crucial role in highlighting abuses and supporting accountability, as seen in U.S. practice.

Conclusion

The U.S. system of checks and balances demonstrates that structural design, judicial autonomy, and inter-branch oversight are essential to limit the abuse of power. Pakistan can learn valuable lessons in institutionalizing separation of powers, strengthening judicial independence and ensuring executive accountability, while also promoting a political culture that respects these mechanisms. Proper implementation could stabilize governance, reduce authoritarian tendencies, and reinforce democratic consolidations.

Question : 5

Introduction

Pakistan's foreign policy towards Afghanistan has historically been shaped by security concerns, ethnic dynamics, and regional geopolitics. The country shares a long and porous border with Afghanistan, which has been both strategic buffer and a source of instability. Recent developments, including the visit of Afghan Foreign Minister Haneef Muttaki to India, have intensified Pakistan's strategic calculations. This visit is significant in the context of Afghanistan-India ties, cross-border militancy, and Pakistan's security imperatives.

I. Border Security Concerns

1. Porous Border and Militancy

a. The Durand Line remains a

contentious and poorly demarcated boundary, facilitating cross-border infiltration by militant groups.

- b. Terrorist organizations have exploited weak border management, posing threats to Pakistan's national security.

2. Pakistan's Strategic Measures

- a. Pakistan has strengthened border fencing and patrolling.
- b. The country has intelligence cooperation with local Afghan authorities when possible.
- c. Use of military operations to neutralize threats along the western frontier

make progress

II.

Terrorist Attack and Internal Security

Cross-border attacks, particularly by groups operating from Afghan territory, continue to challenge Pakistan's internal stability.

Pakistan's foreign policy focuses on preventing Afghanistan from becoming a safe haven for anti-Pakistan militants, balancing the need for engagement with pressure tactics to curb militancy.

Example: Coordination with Afghan authorities and international stakeholders to monitor and act against groups like TTP factions.

III.

Regional Diplomatic Dynamics

1.

Afghanistan-India Relations

(a)

Haneef Muttaki's visit to India signals deepening Afghanistan-India ties, which Pakistan perceives as

strategically sensitive.

- (b) Pakistan interprets such relations through the lens of regional balance of power and potential influence on domestic insurgency.

2. Engagement and Pressure Strategy

- a. Pakistan emphasizes dialogue with Afghanistan to ensure non-interference in domestic affairs.
- b. Simultaneously, Pakistan leverages regional platforms, such as Shanghai Cooperation Organization (SCO) and bilateral talks, to coordinate counterterrorism measures.

IV. Strategic Implications for Pakistan

1. Security Prioritization

Ensuring a stable Afghan state that does not support militancy

is central to Pakistan's policy.

2. Balanced Diplomacy

Pakistan adopts a dual strategy of engagement and deterrence, combining diplomatic outreach with military readiness.

3. Multilateral Cooperation

Collaborating with China, Russia, and the U.S., Pakistan seeks to influence Afghanistan's policies and counterbalance India's presence.

Conclusion

Pakistan's foreign policy towards Afghanistan is shaped by security imperatives, terror threats, and regional power dynamics. The visit of Muttaki to India has heightened Pakistan's focus on border management, counterterrorism and diplomatic engagement. A consistent strategy is vital to safeguard Pakistan's interest.

Question: 8

Introduction

The 26th and 27th Constitutional Amendments mark a decisive shift in Pakistan's institutional architecture by reconstructing judicial appointments, redefining judicial hierarchy, and redistributing power among state organs.

Supporters view these reforms as necessary for enhancing judicial efficiency and curbing personalised authority. Critics argue that these changes risk undermining the independence of the judiciary and altering the constitutional balance of power. A ~~more~~ neutral evaluation requires examining their legal substance, political context, and institutional implications.

1. Key Features of the 26th Amendment

a. Reform of Judicial Appointments

The amendment restructures the process of appointing the Chief Justice of Pakistan. Instead of automatic seniority, a Special Parliamentary Committee (SPC) now selects the Chief Justice from the top three senior-most judges. This change aims to curb concentration of power but raises questions about political influence.

b. Fixed Tenure for the Chief Justice

The Chief Justice's term is capped at three years, creating predictability but potentially weakening judicial leadership and continuity.

c. Creation of Separate Constitutional Benches

The amendment establishes permanent Constitutional Benches, limiting the Chief Justice's discretionary authority in forming benches. Advocates see this as promoting transparency. Critics fear it restricts judicial autonomy by binding case allocation to pre-fixed structures.

2. Key Features of the 27th Amendment

a. Establishment of Federal Constitutional Court (FCC)

The amendment creates the Federal Constitutional Court, placing constitutional adjudications under a specialized court. The FCC has overriding authority on constitutional interpretation.

b. FCC over the Supreme Court on Constitutional Matters

The Supreme Court's power of final constitutional review is curtailed, transferring supremacy to the newly-formed FCC. This significantly alters Pakistan's judicial hierarchy.

c. Reorganisation of Jurisdiction

The FCC handles constitutional questions, while Supreme Court focuses on appeals in civil and criminal matters. This division aims to reduce backlog but changes institutional equilibrium.

3. Implications for Judicial Independence

The amendments collectively shift the balance between the executive, legislature, and judiciary.

a. Greater Parliamentary Role

Expanding the SPC's role strengthens parliamentary oversight, but could also invite executive influence if committee composition is politically tilted.

b. Judicial Leadership Constraints

A fixed tenure for the Chief Justice may prevent long periods of concentrated authority, yet it can also create dependency on the appointing authorities, especially if institutional continuity becomes fractured.

c. Potential Reduction in Interpretative Autonomy

By transferring ultimate constitutional jurisdiction to the FCC, the judiciary's independence depends on how insulated the new court is from political pressures.

4. Impact on Separation of Powers and Institutional Autonomy

a. Shift in Judicial Hierarchy

The amendments reduce the Supreme Court's centrality in constitutional matters, altering the traditional separation of powers. This may fragment jurisprudence or create parallel centres of authority.

b. Strengthening Legislative and Executive Input

While parliamentary input is consistent with democratic norms, the lack of safeguards could increase executive leverage over key judicial decisions.

c. Institutional Balance and Civil-Military Relations

In Pakistan's historical context,

where military influence has shaped constitutional arrangements, critics worry that divided judicial authority may weaken institutional capacity to check extra-constitutional pressures. Supporters argue that distributing judicial power may reduce the politicalisation of single offices.

5. Effects on Governance and Rule of Law

a. The reforms aim to improve predictability in judicial functioning but may cause transitional instability as institutions adjust to new power structures.

b. The FCC may improve case disposal rates, however, dual apex courts risk inconsistent interpretations unless coordination mechanisms are strong.

c. Public Trust

Frequent restructuring of judicial institutions can affect public confidence, especially if perceived as politically driven rather than systematically necessary.

Conclusion

The 26th and 27th Amendments represent some of the most consequential constitutional changes in Pakistan's judicial landscape. They seek to democratise judicial appointments, institutionalise bench formation, and introduce a specialised constitutional court. Their effectiveness, however, will depend on transparent implementation, insulation of the SPC and FCC from political influence, and development of coherent jurisprudence. These amendments neither inherently strengthen nor inherently weaken the state; their long-term impact rests on whether they enhance institutional balance or deepen power asymmetries within Pakistan's political system.