

(Question No. 2)

1. Introduction:

26th amendment was passed on 21st Oct, 2024. It is 26th amendment in 1973 constitution of Pakistan also called "Constitution package". It has been ^{remained} ~~fast~~ controversy among politicians, parliament, executive, judiciary, and citizens. 26th amendment aimed at bringing reforms in judicial commission of Pakistan and judiciary undermining judiciary independence. At first 56 amendments were proposed but 27 were being made. According to critics, it has undermined the independence of judiciary at the cost of political interests.

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"26th amendment of Pakistan:
A blow to independence
of judiciary"

[International Commission
of Justice, ICJ)

2. Main contours of recently
passed 26th Constitutional
Amendment in Pakistan - in
context of Independence of
Judiciary:

1) Restructuring of Judicial
Commission of Pakistan
plays a pivotal shift
amplifying influence of
executive over judiciary -
diminishing independence
of judiciary:

The 26th amendment
has brought changes

in JCP by giving authority to Executive have a "greater say" in judiciary.

Previous JCP	Now JCP
i) Chief justice of Pakistan	i) Chief justice of Pakistan
ii) 5 senior most judges	ii) 3 senior most judges
iii) Federal Law Minister	iii) one senior judge of constitutional bench
iv) Attorney General of Pakistan	iv) 3 members from executive
v) 3 members from executive	v) 4 from legislature
vi) Nominee from Pakistan bar council.	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;"> <p>2</p> <p>NA</p> </div> <div style="text-align: center;"> <p>2</p> <p>Senate</p> </div> </div>
	vii) Speaker will nominate the Custodian from the house, women or minorities

(ii) Establishment of constitutional benches related to the hearing of constitution concern and political cases - another avenue to decrease the judicial independence:

In 26th amendment, constitutional benches were set up, they will hear the cases of political and constitution concerns. Earlier to this, this power was under Supreme Court of Pakistan. It was a clear-cut avenue to undermine the independence of judiciary.

(iii) Taking the power of suo-moto from judiciary - a hit to its independence.

"Article 184"; sub-moto power was taken away from the judiciary. Now judiciary can not take suo-moto on any serious issue or issue regarding human right violation.

(iv) Expansion of Special Parliamentary Committee; including more members from executive which has eroded the spirit of independence of judiciary:

In 26th amendment, Special Parliamentary Committee's members were increased from 8 to 12 members.

It means that there is inclusion of executive which has eroded the spirit of judiciary independence.

Special Parliamentary Committee

Structure

12 members

8 NA

4 senate

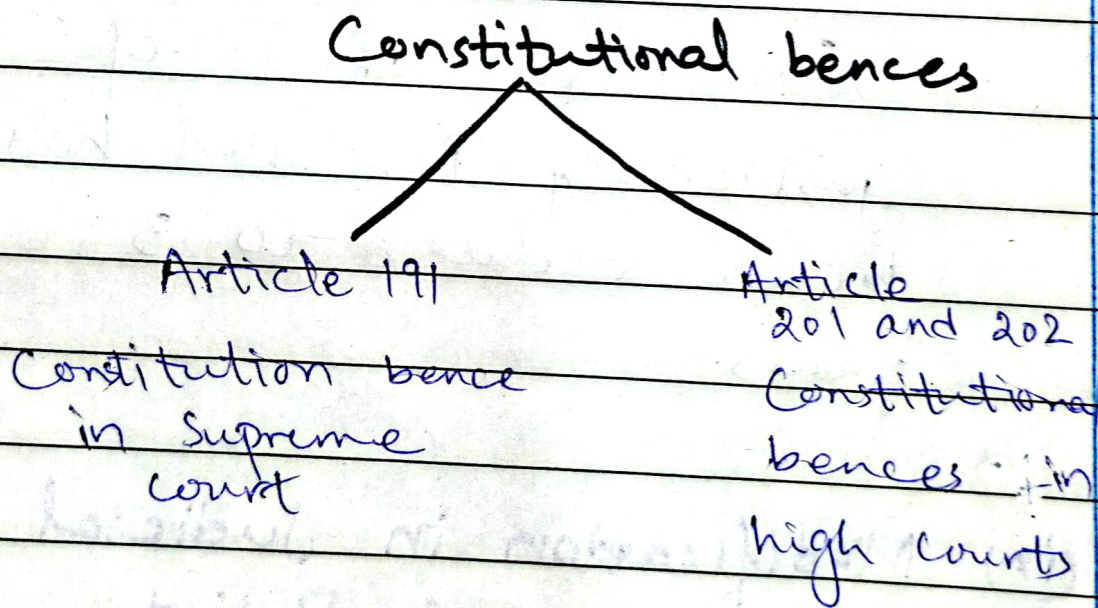
Two third majority is necessary during meeting or nomination of judge of supreme court

(v) Changes in article: 175A -
appointment of Chief Justice of Pakistan:

Chief Justice of Pakistan is now formed from top 3 senior most judges. The prime minister will select and give the name to the president to do signature in it.

(vi) Accentuated the administration of JCP through constitutional benches:

JCP's powers has been reduced due^{to} the establishment of 'Constitutional benches' because now they will manages the cases or matter of political interests and their judge will be nominated from the prime minister of Pakistan.



(vii) Transfer of cases under article '186 A' - given power to Supreme court.

Now Supreme court can

transfer the case from one high court to another or to itself if the case or verdict has been longstanding in the court.

(viii) Decreasing the term of Chief Justice of Pakistan:

The term of chief justice of Pakistan has been reduced to 3 years

(ix) Modification in Judicial Commission of Pakistan:

(a) Direct nomination to the PM:

JCP ^{will} now select the name of the judge

and send it to the PM. Omitting the ^{old} 7 members of ^{special} 7 Parliamentary Committee.

(b) Granting powers to JCP to evaluate the courts:

JCP was granted to evaluate the performance of Supreme Court and High Court annually.

(X) Elimination of riba:

Article 38, it was said to the complete elimination of riba on 1 January, 2028.

(xi) Right to clean environment, healthy environment.

2. In article 9A, it was
3 said that it is the right
4 of every citizen to breathe
5 in clean environment.

(xii) Amendment to article
203 D:

Federal Shariat will conduct
the law that it is not
against Islamic principles.

(xiii) Amendment to article
48 - weakening judiciary:

Anything that is passed
by the PM or cabinet
would not be questioned
in any court.

3. Conclusion:

To conclude, it can be

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said that 26th amendment is aimed to bring reforms in judiciary but in fact it has made judiciary and CJP "a toothless tiger". 26th amendment has undermined the independence of judiciary.

"The modification within the constitutional amendments bring an extraordinary level of political influence over judicial appointment and judiciary's own administration."

[Santiago Canton,
Secretary General
of ICJ]

Question No. 1

1. Introduction:

Pakistan is a country of diversity. Pakistan's political culture is marred with extreme polarization, due to its different ethnic groups, political parties, religious and extremist groups, and minority groups. Political polarization has damaged the very fabric of the democracy. Pakistan's polarization is also recognized with sectarian division. Political polarization is due to various reasons.

“The worst evils which mankind has ever had to endure were inflicted by bad governments, but the vilest and most distressing of all is the

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polarization and fragmentation
of one's own people.

[Allama Iqbal - K.K. Azim,
The Pakistan Movement
and the Indian Muslim]

2. Pakistan's ^{Political} culture being marred
by extreme polarization:

(i) Military intervention in
democratic culture of
Pakistan:

It is Pakistan's long history
that the fabric of democracy
was being damaged by
the military intervention.

There has been more than
30 years rule of military.

The rest of years, military
has kept footprints in
political. Resultantly, it gave

way to the political polarization in Pakistan.

(ii) Unsuccessful democratic governments in the history of Pakistan - gives rise to political polarization.

There have been twenty three prime ministers in Pakistan till its independence, none of these has complete his tenure. Three prime ministers were ousted by military.

This has created unrest among the public, organizing their own group in order to fulfill their objectives.

(iii) Unchecked and biased media, igniting the certain political groups.

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Pakistan's media is unchecked.
Due to it, Pakistan's society
has been disfigured.

(iii) Linguistic, ethnic and
extremism divides:

Pakistan is multi-ethnic
and multi-lingual country,
with different extremists groups.
All these have their own
objectives and separate identities.
However, these differences have
often been exploited by politicians
to create divisions and fuel
polarization.

(iv) Personalities-based politics
in Pakistan:

Personalities-based politics
in Pakistan add fuel to

the fine ; creating divide among public and politics.

3. Way forward for a politically polarized culture.

(i) Fostering dialogues and tolerance among different sects of the society:

There is need to foster dialogue among the different sects, ethnic groups, political parties, and religious group to come on single page for country's progress.

(ii) Check on media:

There should be proper check on media so that political environment would be

remained safe from polarization

ciii) Strengthening democratic institutions of Pakistan:

Pakistan's ^{government} should strengthen the democratic institutions to save them from polarization.

4. Conclusion:

To conclude, it can be said that there are several factors contributing to ignite political polarization in Pakistan. So it is dire need to find ways and act upon above remedies to save Pakistan's culture from being polarized.