

PAKISTAN AFFAIRS, TEST: 2.

QUESTION: 2:

Explain the main ... judiciary.

ANSWER:

INTRODUCTION:

The 26th constitutional amendment was passed on 21st of October 2024, marking a significant milestone in the country's ongoing judicial reforms. The amendment was consisting of 27 clauses, most of these 27 clauses were to change the power dynamics between the parliament and the judiciary. The core objective was to give greater parliamentary oversight on judicial matters. Curbing the role of the Supreme Court and expanding the role of elected representatives in the judicial commission of Pakistan. This development arose from a long standing history of judicial activism and tension between the judiciary and legislature.

TENURE OF THE CHIEF JUSTICE.

Previously, according to the 18th amendment, the

was that the chief justice of Pakistan will serve till the age of 65 years. 65 years was the peak age of the CJP, after which he would retire. But, according to the 26th amendment the tenure of chief justice is set to 3 years. This means that if an individual becomes a chief justice at the age of 58, he will retire after 3 years, along with the limit of 65 years is also stated in the 26th amendment.

SELECTION OF CHIEF JUSTICE: (175-A)

According to the 13th amendment, the senior most judge would become the chief justice of Pakistan. But after the 26th constitutional amendment, according to the article 175-A, a 'special parliamentary committee' will be made, consisting of 12 members. This committee will decide from the top 3 most senior judges, the chief justice. 2/3 majority has to be in the favour of choosing the CJP. Out of these 12 members, 8 will be from the national assembly while the remaining 4 will be from the senate.

CHANGES IN THE JUDICIAL COMMISSION:

Before the 26th constitutional amendment, the strength of the judicial commission was 9 comprising of CJP, 4 senior judges, a former CJ, 1 attorney general, Federal minister for law and justice and a senior advocate. But this formation of the judicial commission has been changed increasing the number of parliamentary members (2 members from national assembly, 2 members from senate). This was done to increase the parliamentary power.

JUDICIAL PERFORMANCE EVALUATION:

26th amendment give the authority to the judicial commission to conduct annual performance evaluation of the judges, if the performance is not liked they are given time to improve, if there is no improvement in their performance a report is sent to the supreme judicial council for further action.

SOO MOTO POWERS:

According to the 13th amendment of Pakistan, the

(units), in this structure the provinces

CJP was allowed to take Soumots actions but the 26th amendment puts a stop to the Soumots action.

CONCLUSION:

Although very controversial, but could have been expected, seeing the history of judicial activism in Pakistan. The 26th amendment might play a pivotal role in the stability of politics.

QUESTION NO#3:

Federal Structure Discuss.

ANSWER:

INTRODUCTION:

Since the establishment of Pakistan on 14th August 1947, 3 constitutions have been made.

The 1956, 73 constitution were both parliamentary in nature, although the 1962 constitution was presidential. All the 3 constitutions of Pakistan had a federal structure and not a unitary one. The debate for parliamentary or presidential system, federal or unitary structure is very old but if one study in depth the federal structure and parliamentary system are the most appropriate and suitable forms for Pakistan.

FEDERAL STRUCTURE:

Federal structure is the structure in which the power is distributed among the central (federal) and the provinces (units), in this structure the provinces enjoy autonomy.

After the 18th amendment the federal structure gives more

more powers to the provinces and only comprise of one list, the federal legislative list. The subjects in the federal legislative list are that of the capital and the subjects that are not in the list are of provinces.

FEDERAL STRUCTURE IS THE MOST SUITABLE:

The federal structure is the most suitable structure for a country like Pakistan because the population and geography of Pakistan is very diverse. Every province comprises of its own culture, traditions and people, in such a country the autonomy should be given to the provinces so that they can self govern the people living in that very area. Also a federal structure - the Prime minister both and chief minister both work in their own domain.

PARLIAMENTARY FORM OF GOVERNMENT:

Since the establishment of Pakistan this debate has been going on, whether Pakistan should have a parliamentary system or presidential.

Parliamentary system is the system in which the head of the

government is elected by the parliament. In the parliamentary system the head of the government is the prime minister while the head of the state is the president. America has a presidential system, while Pakistan and India have a parliamentary system.

WHY PARLIAMENTARY FORM OF GOVT IS THE MOST SUITABLE FOR PAKISTAN:

Government and parliament have a homogeneity, this means that both are connected by one party. To pass a law they don't have to face any issue.

Another plus point is that in a parliamentary government multiple parties can run a government through coalition. Just like the current government of Pakistan which is a coalition between PPP and PML-N.

Such form of government is also more suitable for a heterogeneous society.

Another merit about the parliamentary system is that it does not have any dictatorial tendencies whereas presidential system has dictatorial tendencies and history is evident that

that Pakistan has been a victim of such dictatorships.

CONCLUSION.

Despite the fact that presidential form of government and a unitary structure both have its merits but the more suitable form of government for Pakistan is parliamentary and the more suitable structure is federal.