

PART-II

PAPER-II

Q2

Introduction:-

The U.S. is a federal republic with a democratic setup. The U.S. federal system divided power between the national government and state governments. The separation of powers is incorporated in the U.S. constitution. The doctrine of check and balance also upheld in the U.S. federal system.

Strengths of U.S. federal system.Constitution of U.S.A

The constitution has three main functions. First, create a national government consisting of a legislative, an executive, and a judicial branch, with a check & balance setup. Second, it divides the powers between federal and the states. Third, it protects various individual liberties of American citizens.

Separation of powers.

The Executive powers are vested in the President, the legislative powers are vested in Congress, the judicial powers are vested in the Supreme Court, also the system provide check and balance to avoid tyranny.

For example - President appoints federal judges, but their appointment must be confirmed by Senate.

Division of federal and state powers.

The federal government is very strong, with much power over the states, but at the same time, it is limited to the powers enumerated in the constitution.

Protection of Personal Liberty:

Main aim of U.S. constitution is to protect the liberty. For example, Article I-(9)(10) prohibits both ex post facto laws, which punish conduct that was not illegal at the time it was performed, and bills of attainder which single out individual or groups for punishment.

Doctrine of Check & balances

The check and balance system provides each branch of government with individual powers to check the other branches and prevent any one branch from becoming too powerful. For example, Congress has the power to create laws, the president has the power to veto them, and the Supreme Court may declare laws unconstitutional.

Permanent Protections of a Constitution:

An amendment must first pass both houses of congress by a two-thirds majority and must then be ratified by the legislatures of three-fourths of the states. In a sense, this makes the constitution an anti-majoritarian document.

Independence of Judiciary:

In U.S.A the judiciary of independence is upheld. The Judiciary can strike down an act of parliament which is unconstitutional.

Marbury v. Madison: 1803

In this landmark case the Supreme court declared a act of congress unconstitutional and stated that congress do not possess with unlimited power.

Weaknesses of U.S Federal system.

President and his congress not accountable to the congress.

In the U.S.A federal setup the president is not accountable to the congress, nor his cabinet is accountable to them. (congress).

Spoil System of bureaucracy:

In the U.S.A the bureaucracy was in the pick and choose system in the bureaucracy.

President control over executive branch

The two most important branches of U.S. federation are the office of Management and Budget and second the National Security Council. These two branches are can be misused by President.

Judicial Activism

The U.S. federation also have the judicial activism, which can be misused by the judge for far more approaches in the decisions. They cannot lead the other department to do their work.

Conclusion:

The U.S. constitution is a mixed approach, that some areas president is more powerful and in some areas to congress. However, the each branch gets check the other branch, which established the principle of check and balance. The separation of power is also important which is upheld in the U.S. federation.

Section B.

Q5

Introduction:

Sir Syed Ahmad Khan was a great Muslim scholar and reformer. He came forward to guide the Muslims who were destined to be ruined and eliminated from the Indian Society as a result of Hindu and British domination. Awakening among the Muslims about the political ups and downs and co-existence in the presence of other nations in India was another contribution of Sir Syed.

After the war of independence.

After the war of independence 1857, had advised the Muslims to keep away from practical politics of the country as long as they do not equip themselves with the necessary education.

First educated then entire in politics:

Sir Syed said that, if you enter into political first to acquire education then enter into the politics. As Indians had a great control on congress because they are education ahead from Muslims.

political activity began at 20th century:

political activity began at 20th century when the Urdu was curtailed Muslims

formed the Urdu defence association on May 2, 1900 at Aligarh.

Hindu-urdu conflict:

It was the time of 1867 when the Hindu-urdu conflict started which had original set by the Sir Syed Ahmad Khan to formulate his two-nation theory. Muslim began to organize themselves politically and to protest against the official decision.

The partition of Bengal

The partition of Bengal, Bengal was a Muslim majority area but Muslims seemed not to be aware of this, because in West Bengal which is located near Calcutta were Hindus are in majority. Bengal was a large area, thickly populated area and Calcutta had to administer the Bengal and British India, this lead the partition for administrative purpose which is said by Lord Curzon.

The Simla Deputation

The Bengal partition and the Hindu-urdu conflict birth the Simla Deputation which is head by the Sir Agha Khan-III

Demand of Simla Deputation

The Simla Deputation mainly had four demand which are as follows

1) Separate electorates:

The Muslim voters would be registered separately from the Hindus and would vote only for Muslim candidates.

2) Weightage:

That minorities would be given more representation than their population. For example, the Muslims of UP were 16% of the population, they would get 20% representation.

3) Government and judicial services

This was the most important demand.

It brought handsome salaries, powers and influence in society at large. The Muslims were not given jobs in Government service and Indians were given the jobs. It demanded that Muslims should be taken in Government service especially in high posts.

4) Changing the Status of Aligarh Institution:

Aligarh was the nerve centre of the Muslim political revival. By Aligarh the politics was revived. The Aligarh acquired the status of university in 1920.

Date: _____

Day: _____

Approved demands

The demand of separate electorates was not achieved at Simla. However in Morley reform on 23 Feb 1909 it was accepted.

Formation of Muslim League

Sir Syed Ahmad Khan, and people who shared similar opinions about the public matters, came together and formed a political parties.

Congress was not representing the Muslims. In 1887, Sir Syed asked Muslims not to join the congress. The congress would represent the majority community, and the Hindus; and Muslim representation would be by default as the Muslims were out numbered to 4 in to 1 and unable to secure the representation.

political impacts of Aligarh

It revived confidence among the Muslims to fight for their economic and social rights. The Aligarh movement was a beard movement which left its impact on every phase of the Muslim life. Actions taken by Sir Syed Ahmad Khan left a far-reaching impact on the social, economic, educational, political and cultural.

Conclusion:

Sir Syed Ahmad Khan, Awakened the Muslim to get their rights from Hindus and British India. That achieve the purposes which are representation of Muslim, separate electorate and jobs in the Government. He also laid the foundation for the movement which turned into the Pakistan movement in the later stages.

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Q6

Judicial Activism:

The judicial activism, which means judge should do the progressive and liberal interpretation of law. Judge go beyond the normal interpretation of law.

In Pakistan the judicial activism starts from the lawyers movement 2007.

Summo power

Through the Summo power in past time, the judge can interfere with all matters and decide the matter in the direct manner. However due to the 20th amendment the court now cannot sole exercise the Summo power.

20th amendment curtail Summo

As per 20th amendment the judicial activism cannot take place as article 184(3) and 199 are not subject to a committee. If a judge want to take a case in the Summo power then the committee to approve the matter first then the court look the matter because this cannot be take place.

Judicial activism violation of separation of power:

If a Judge do judicial activism it should be not beyond their scope. Other wise the doctrine of separation of power will be violated. The doctrine of separation of power is to ensure that all three organ are not crossing their limits and one branch is not powerful to influence the other branch.

Activism leading to good governance.

Judicial activism play a important role in the good governance.

The judicial activism can play an crucial role to achieve the good governance. For example, upholding the rule of law, taking accountable the Government officials. that law is same for everyone.

Judicial activism protecting the public liberty:

The judicial activism can play an important role in ~~the~~ term of protecting the fundamental human rights. For example in Shela zis case the Supreme Court ruled that the wabla (electric supply company) cannot build an electric transformer place in the green belt of Islamabad.

which comes in residential areas. In which court says that Article 9, 14, one is violation. And interpreted right to life, life means plants, animals and a healthy environment is included.

Judicial Activism uphold the administration of justice.

The judicial activism, if positive usefully then it can uphold the justice. However, if it use in aggressive way then it may lead to bad governance.

Judicial Activism leading to bad good governance.

Biased judicial decision

The judicial activism can lead to the Biased judicial decision. As they are align with a political party then they give decision are regarding their party.

lack of judicial accountability

Another reason that the lack of judicial accountability against the perpetrators of white-collar crimes, including high ranking officials. According to a report in which 70% of participants says Pakistani judicial system did not adequately dispense justice.

Use of assertive judicial authority:
The senior judges or chief justice use excessive ~~study~~ judicial power. For example
EX- CSP NTSAN uses power for funds
of dam, but the dam never built. These
created a opinion that judiciary is
corrupt and not do justice.

Survey of LUMS

According to a survey of LUMS the 90%
of people thinks that Pakistani judiciary
tempored with the politics and 80%
of participants said that judicial
interference in politics.

Conclusion

The judiciary's growing fondness for
power amalgamated with its political
overreaches has raised massive concerns
over its ability to adjudicate fairly and
without any prejudices. The judiciary
should not interfere to the politics. They
are only to protect the constitution, uphold
the human right and interpret the
law in a progressive ^{way} to ensure the
judg. justice.

28 a) Council of Guardians:

The council of Guardians also known as Shura-ye Negahban, is an super powerful, 12 member group that determines whether laws passed by Parliament conform to Islamic principles and can be ratified or not.

Responsible for interpretation of law

It is responsible for interpreting constitutional law and supervising elections.

Membership

Total consist of 12 members. of its total memberships, six clerics are appointed by the faith, the other six are whose selection must be done by the Majlis, are nominated by the High judicial council and are layman lawyers. The member are elected for six year terms.

Conclusion

The council of Guardian reviews all legislation by the the majlis determine it constitutional or not. The council also supervise the elections. It basical a body who check the laws and elections for presidency

b) ECO

The Economic Cooperation Organization is an intergovernmental organization, that was founded in 1985 in Tehran by the leaders of Iran, Pakistan and Turkey. It provides a platform to discuss ways to improve development and promote trade and investment opportunity between the member.

Aims of ECO

The ECO, aims are sustainable economic development of member states, Economic liberalization and privatization, progressive trade policies, promote intraregional trade and Realization of economic cooperation strategy and Exchange in education, scientific, technical and cultural fields.

RCD Highway

The success of ECO is the RCD Highway founded in 1964. This Highway connect Iran, Pakistan, Afghanistan, China, and other parts of the central Asia.

Conclusion:

The member state need to invest more in the ECO to get more benefit. It will promote mutual benefits to its member states for example Iran-Pakistan gas pipeline can be started.