

QNO - 02

# CONSTITUTIONAL AMENDMENTS

Start with the summary of the

answer as introduction **DEFINITION OF CONSTITUTION**

Constitutions are defined as;

"The living documents of a country in order to reflect the aspirations, challenges and priorities of a nation."

## B. CONSTITUTIONAL AMENDMENT

Constitutional amendments serve as a mechanism to align the governance framework with the contemporary challenges.

## C. 26<sup>TH</sup> CONSTITUTIONAL AMENDMENT

The 26<sup>th</sup> constitutional amendment enacted in October 24, introduces significant changes to the judicial system of Pakistan, with respect to SC and HC.

# ICTJ SECRETARY GENERAL

"The changes in the constitution brings an extraordinary level of political influence over the process of judicial appointments and judiciary own administration."

## D. CONTOURS OF 26<sup>th</sup> AMENDMENT

Parliamentary oversight

KEY PROVISIONS

Appointment of Chief Justice

Limitation of Suo Motu powers

Reconstitution of Judicial Commission

### 1. Appointment of CJP :

Appointment of Chief Justice of Pakistan, raises the concerns about transparency, accountability and independence of judiciary

#### 1. Special Parliamentary Committee

- 8 members from NA
- 4 members from Senate
- Nominating from 3 most senior

## ii. Removal of Seniority Based Appointments

- Before, the most senior judge of SC automatically became the CJP ensuring a political process

Also mention the article numbers amended as references

## 2. Establishment of Constitutional Bench

A separate bench within the SC is created to look the constitutional matters

## 3. Parliamentary Oversight

The increased parliamentary oversight ensures more and greater legislature influence over judicial functions.

## 4. Limitation of Suo Motu Powers

This limitation of powers now requires greater approvals from judicial committees.

## E. ADMINISTRATIVE POWERS OF JCP

The subsequent changes to reconstitution of JCP reflects to the independence and impartiality of judiciary.

CHANGES TO POWERS OF CJP
--------------------------------

Retrospective  
Transfer

Transfer of

Writ Jurisdiction

Power for Const-  
itutional Benches

### 1. Power to Nominate Consti- tutional Benches

JCP has the authority to nominate 'constitutional benches' in SC and HC, given the exclusive jurisdiction involving;

- interpretation of constitution
- enforcement of rights

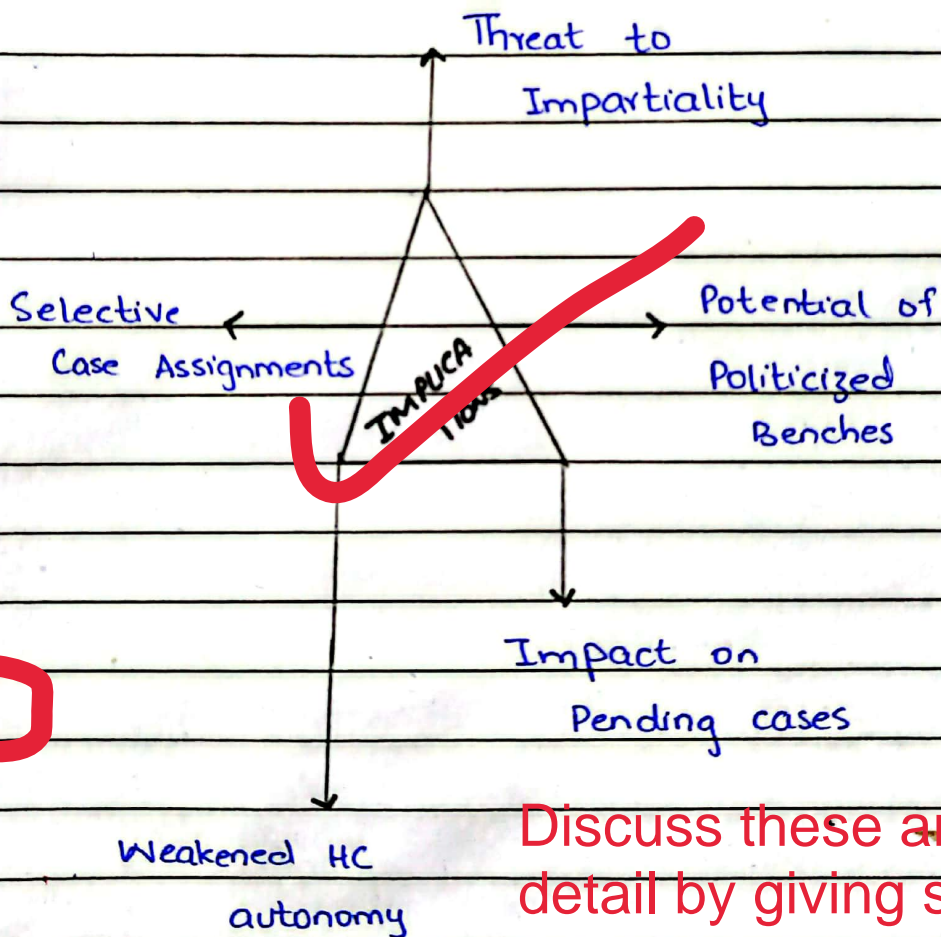
### 2. Transfer of Writ Jurisdiction

High courts power towards writs, had been shifted to JCP nominated constitutional benches.

### 3 Retrospective Case Transfers

All due pending cases, appeals and petitions were transferred to const. benches from previous writ jurisdictions.

## IMPLICATIONS FOR THE JUDICIAL INDEPENDENCE



Discuss these arguments in detail by giving subheadings

CONCLUSION :