

Q 21) Introduction:-

Constitution of any state is not any fixed document but a living document which means that it can be amended from time to time for wider public interest. It is the sole prerogative of the legislature, who is the sole representative body of the people. They have the requisite mandate to do any sort of amendment. However, the impacts of such an amendment can be both positive or negative. Same is the case with the recently passed 26th amendment that has a wide-range implications for state's another body, i.e. judiciary. The salient features of this amendment, such as constitutional benches, appointment of judges, of supreme court and others have significant implications for the independence of the judiciary.

2) 26th amendment: main clauses, adoption, deliberation and judiciary

2.1) Background:-

envisaged in power by those that are now as an "constitutional" package. Basically, it was meant for the imposition of check and balance on the judiciary. For this treasury benches had started deliberations

2.2) Deliberations:-

Initially 57 amendments were envisaged. However for gaining required numbers and for achieving maximum consensus 27 amendments were only included in the amendment

2.3) Passing of the amendment

Thus 27 amendments that were included in the package was passed by 2/3rd majority in the parliament on 21st October. By this parliament by using its own prerogative has heralded a landmark legislation.

3) Contours of recently passed 26th amendment

Contours

Related with the judiciary

Other than judiciary

- a) Appointment of CJP of
- b) Tenure of Chief justices of Supreme and High courts

a) Elimination of Riba by 2028.

c) Sou motu cases.

b) Insertion of Article 9-A.
(Right to have a clean environment)

d) Reconstitution of JCP.

c) Retirement of Chief Election Commissioner

⑧ Formation of constitutional benches

⑨ Performance evaluation and dismissals against judges.

④ 26th amendment and independence of judiciary.

a) Appointment and tenure of CJP (Article 175A)

Unlike in the past, CJP has now fixed term of 3 years. He is not now the senior-most judge appointed by the special parliamentary committee.

Special parliamentary committee → Formed by the proportional representation of the parliament
8 members from National Assembly and 4 from senate

b) Suo Motu cases:-

Article 184(3) was also amended to deprive the suo motu power of CJP. It was handed over through Practice and Procedure Act

c) Reconstruction of JCP:

Past

- a) CJP
- b) 3 senior most judges
- c) 3 members from executive
- d) One nominee from speaker of NA from women.

Total 8 members

Now

- a) CJP
- b) Presiding judge
- c) 3 senior most judges
- d) 3 members from executive
- e) 4 members from Parliament 2 from each house
- f) one nominee from speaker of NA from women

Total 12 members

Ⓐ Performance of evaluation of judges.

JCP has now the powers to evaluate the performance of the judges. It can move the resolution of dismissal of judges.

B) Age for high court judges

Age for becoming high court judges are reduced from 45 to 40.

4) Constitutional benches

Constitutional benches are formed, having equal representation of provinces.

Now the matter of constitutional importance are not dealt by CJP alone but by the JCP backed constitutional benches

5) Arguments in favour for the 26th amendment

5.1) :- Constitutional benches can ease the burden of cases, as important cases impedes justice denied.

DATE: / /

5.2 → "Not the seriously principle but performance prevails in the appointment of judges"
"Performance"

5.3 → "By clipping article 184(3), judicial activism can be curbed"
"Judicial Activism"

5.4 → "By reconstituting JCP, the powers are within the checks and balances of parliament"
"Checks & balances"

5.5 → "Reducing age limit of judges of high court can expand the number of judges, reducing case overload"
"Increasing number of Judges"

5.6 → "Constitutional benches can increase the confidence on judiciary as it can dispense justice in a better way of matters related to the national importance"
"Constitutional benches"

⑥ Arguments against the independence of judiciary

a) Politicization of judiciary

By including special parliamentary committee for appointment of CJP, it has politicized the judicial appointments

b) Disturbance in the concept of "balance of power"

Parliament
JEP has now edge in total numbers of JEP members. This can ~~part~~ undermined the formation of constitutional benches

c) Harm in preservation of fundamental rights

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As by clipping 184(3)(A),
it has clipped the
CJP's power to provoke
in case of violation
of fundamental rights

e) Performance evaluation at
the hands of politicians

JCP and SPC has
been now included most
of politicians. This political
evaluate judges performance.
This will undermine the
basis of "triloka of power"

⑦ Conclusion:

In a nutshell
we can say that 26th
amendment has far-reaching
impacts on the judicial
system of Pakistan. Those
who brought this amendment
has of the view that
it would upbringing the
most-needed reforms in the

judiciary and bring transparency
 accountability and ~~meritocracy~~
 in the judiciary. However, critics
 argue otherwise and say
 that it will cause the
 politicization of judiciary. Thus,
 the time will tell us
 about its far-reaching
 implications

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Question 3

① Introduction:

The most important
 purpose for the Government
 is to serve its people.
 It can only perform such
 purpose when it deeply
 embrace the nature of
 its constituent things. So,
 if they are diverse in
 its constituent elements,

than a particular form and structure would suit with them. On the contrary, governments have to adopt otherwise. Pakistan has also much diversity as a nation, which the government has to utilize them into foreign unity.

2) Federal Government & parliamentary form of government

2.1) Chief characteristics of federal government

Fiscal autonomy to provinces

Federal Govt maintains defense, communication, commerce and other important yet limited matters

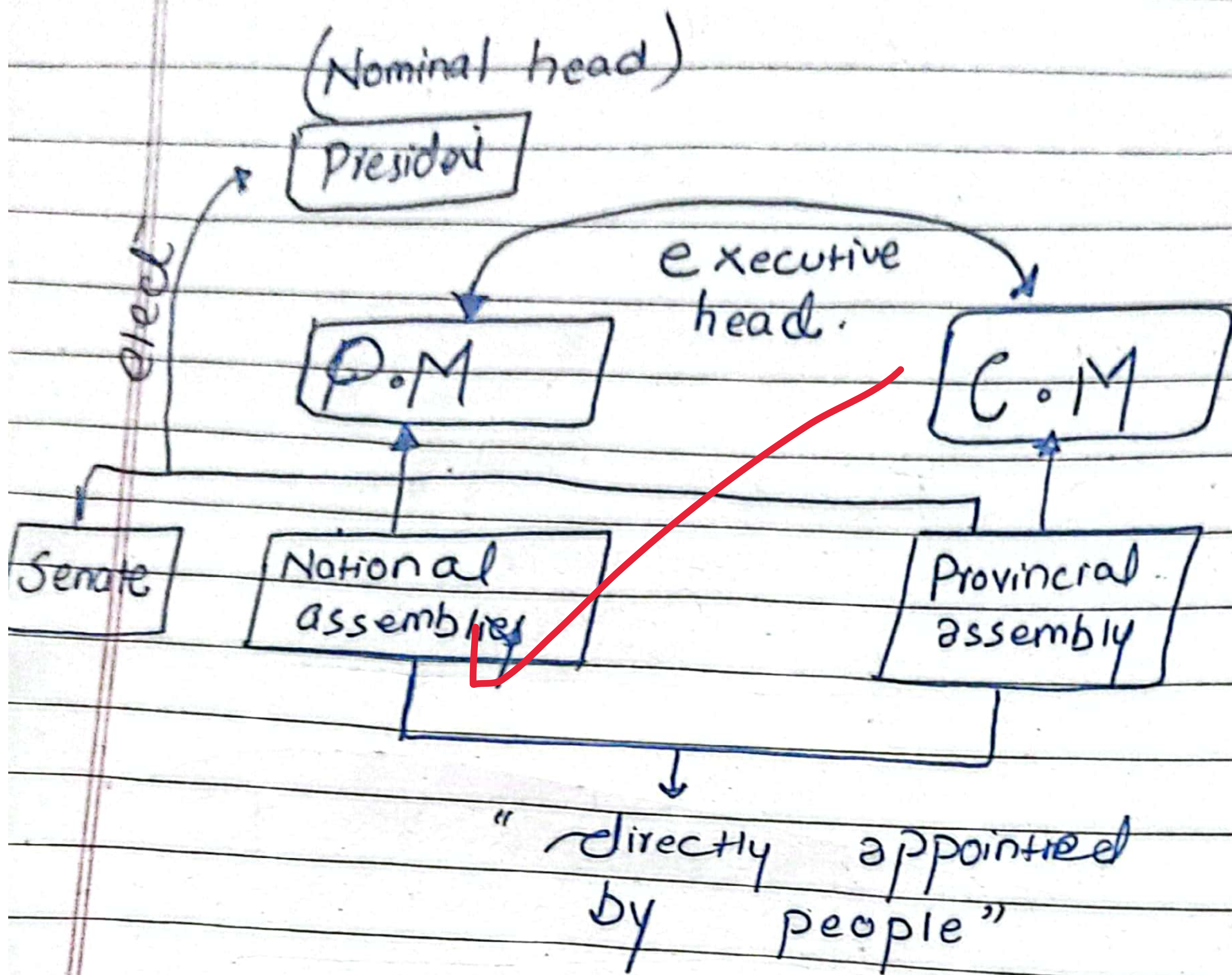
Federal Government

Provinces have greater autonomy

Legislative autonomy to provinces

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2.2) Parliamentary form of gov

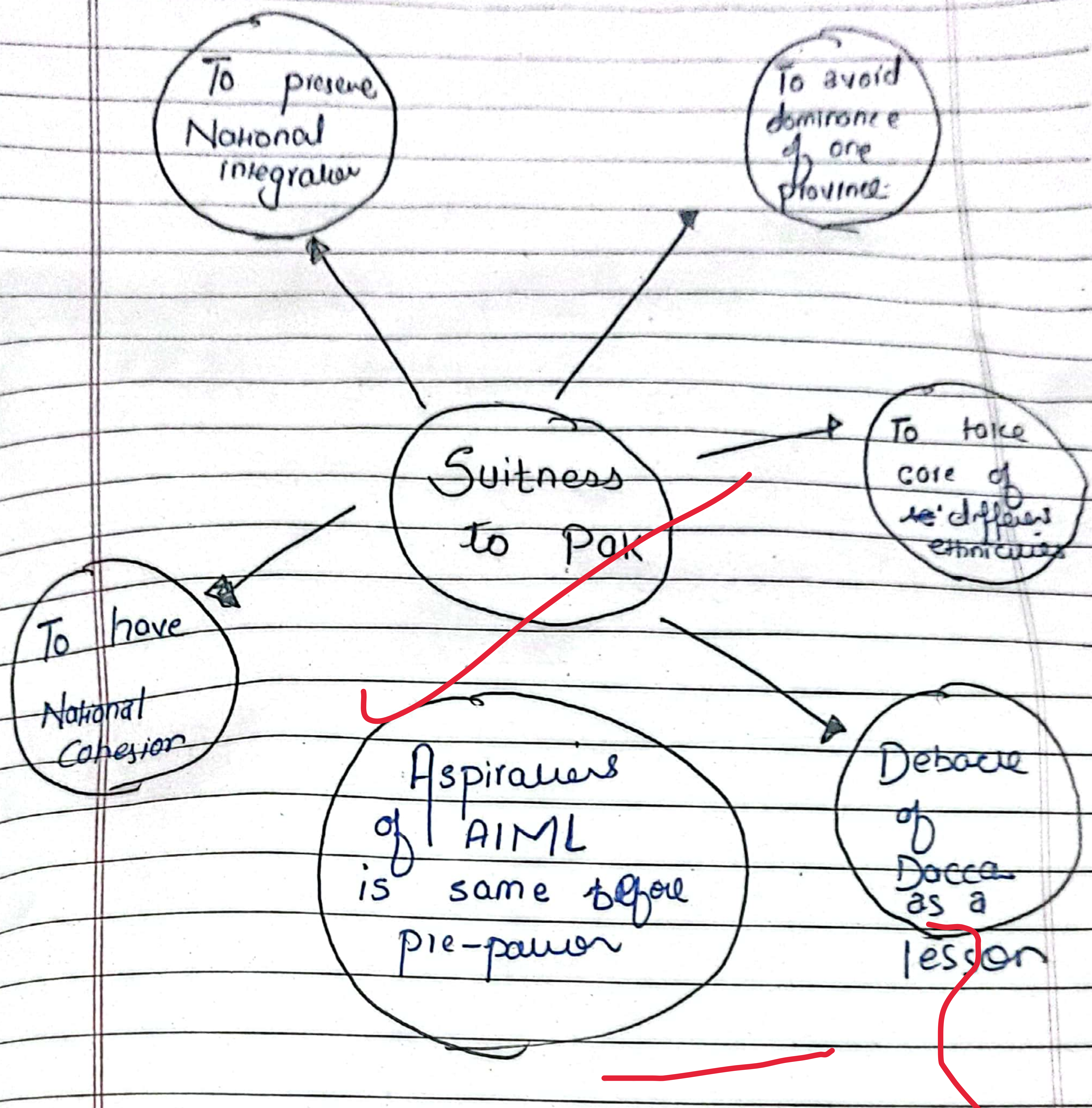


3.) Why Pakistan

best suits for

federal & parliamentary

form of gov



Conclusion

Our
and
of

Based on
founding principles
our experience
debate of Bangladesh

federal and parliamentary

System would best suit

as } as visible in its

continuity - It helps in

the preservation of national

unity and diversity

differences