Q no. 1)

Introduction: Amendments in Constitution

The amendments are made to eliminate loopholes in the constitution and prepare one's country to evolving situation. The history of amendments in of constitution of Pakistan 1973 just after its application. From 1974 to 2025, the constitution has faced 27 total amendents. The 18th amendment is considered to landmark achievement. On the other hand, 26th and 27th amendment has disturbed the separation of power, judicial activism and independent judiciasy to much extent. The debate will uncover the merits, demerits of 26th and 27th amendments in evolving the political landscape of Pakistan.

Background of 26th and 27th Amendment:

1- Judicial Over-reach and Political Instability

Throughout the history, military coups were legalised and halted the democratic norms. From Ayub Khan to Mushrruf, they legitimize their government by judicial over reach.

2- Judicial Intervention in Executive Function: Overlapping resulting Functional halt

In many case like Privitization of Karachi steal Mill, SCP of halted the process owing to know that these are becoming burden to buget and resulting deficit.

3- Backlog of Constitutional Cases in SC:

The constitutional cases in SCP were increasing day by day. Almost 56 lac cases were yet to be resolved.

26th Amendment and Changing Political landscape of Pak:

1- Appointment of Chief Justice of SCP:

A twelve member Judicial commission containing CJ of SC, two senior judges of SC, senior judges of HC, Attorney General, two members will decide CJ of SCP. The Three most candidates will be picked and one of them would be CJ.

Analysis:

The scholars and constitutional experts argue that the choice of three most senior judges may undermine the right of original candidate as previous.

2- Evaluation of Judges by Special Parliamentary Commission:

The Parliamentary committee consisting eight members would evaluate the performance of judges.

But critics argue that it will provide vacuum for executive intrusion.

Analysis:

The debators raised questions that the parliamentary committee can be politically biased and can curb the right of original candidate.

3-Restriction on Suo-moto:

The 26th amendment restricted the judges to resolve cases within existing boundaries. The power to open previous record and appellate has been curbed from CJP.

Analysis:

The restriction on suo moto has raised debate of judicial activism and judicial independence at every journalist forum. The critics argue that executive may intervene in the decision making hence curbing judicial independence.

27th Amendment and changing Political landscape of Pakistan:

1. Establishment of Federal Constitutional Court:

Under 27th amendent, it has been exclusive Federal Constitutional Court created. Now, all constitutional matters would be transfered from SCP to FCC.

Analysis:

Experts and scholars have advocated that there has been overlapping domain of human fundamental rights among civil, criminal and constitutional cases.

2. Appointment of Chief Justice of FCC:

Unlike 26th amendment, the Chief Justice of FCC would be appointed on the advise of Prime Minister by the President.

of Pakistan.

Analysis:

Critics have raised concern that there has been clear executive intervention curbing judicial activism and Judicial independence as part of 1949 Resolution.

3- Transfer of Suo Moto power from SCP to FCC: does Judicial activism curtailed?

The suo moto power of intervening executive legislature now transfered from SCP to FCC.

Analysis

Journalists argued that when CJ of FCC would be decided by Executive and the President, there is high chance that it may be mis-used.

4- Who will head JCP and Role of SCP:

The Chief Justice of FCC

has advantage of senority because his age limit is 68 year unlike SCP, 65 year. Symbolically both will represent the CJP.

Analysis:

Analysts gave exegesis that Practically, the head of FCC has age limit advantage and automatically senority and will be chosen according to wish of executive. It may undermine judicial legitimacy.

5. Transfer of Judges and Crique:

Before 27th amendment, ~~the~~ Judges were transferred according to their will. But after 27th amendment, judges would be transfered without their consent. If judges resist, they would be considered as enculled or retired.

Overall Assessment on Judicial Indepence:

Keeping international patterns, regional frameworks and

objective resolution in mind, the changes that has been made under 26th, 27th amendments, have increased the role of executives in judiciary which not ideal.

Conclusion:

To sum up, under 26th, 27th amendment although Pakistan has adopted international patterns but democracy level has been weak leading towards Judicial restrictions and dependent. However, stakeholders, uses the power granted under 26, 27th amendment for the soul purpose of transparency, it can be instrumental for rule of law and Political stability. Robert Forest, a famous ameeican poet, has rightly said in such situations:

The woods are highly dark and deep
But I have promise to go before sleep. ~ Robert Forest