

Day: _____ Date: _____
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Test Series - 005

LMS - 43585

Qno:1

(1)

Introduction: 26th and 27th Amendments

and their impact on political landscape

of Pakistan

The 26th and 27th amendment are the most recent changes to the constitution of Pakistan. These two amendments, according to experts, mark the most major shift in the political culture, democratic norms, and civil-military relations. Apart from the government bodies and authorities, these amendments have been widely criticized not only in Pakistan but also across the globe. Critics argue that these amendments have led to the deterioration of democratic values, judicial structures, human rights concerns, and power concentrations without accountability. Moreover, these changes have also altered the structure of civil-military relations and reduced civilian oversight. To be precise, such a scenario has been created by these amendments that undermine the entire democratic fabric of the country.

(2)

Some Major Amendments to the Constitution of Pakistan: 26th and 27th

process of appointment
of Senior Judiciary :

Used to be on a Seniority base, but
the amendment changed it. Now, Chief Justice
would be appointed from top 3 Senior
Judges.

Nominated by Parliamentary Committee →
PM's approval → President's approval.

Constitutional Benches:

Will be created in Supreme Court, for matters
of constitution, public interest and high-
profile cases. It will be constituted under
the Judicial Commission of Pakistan.

Fixed tenure of the Chief
Justice of Pakistan:

Will be fixed for three for three years
regardless the retirement age is reached

More Parliamentarians in
Judicial Commission of
Pakistan (JCP) :

The amendments lead to a change in
which more parliamentarians will be added
to JCP. Removing the previous buffer
of judicial supremacy.

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Eligibility of appointment
of Senior Judges:

The age was reduced from 45 to 45.

Moreover, a "performance improvement
plan" if its performance is unsatisfactory.

Federal Constitution
Courts:

To be placed in Islamabad, and representation
of all provinces. Will watch constitutional
and intergovernmental matters. Moreover,
it was created with reduced powers.

Curtailed the "Suo Moto"
powers:

Abolished and heavily restricted. Supreme
Court can no longer take action of the
Constitutional and Human rights matters.

Transfer of Judges:

Could be transferred easily between the
provinces on recommendation of JCP

Lifetime Constitutional
Immunity:

From all legal and constitutional cases
for President and the COAS of Pakistan.

Office of Chief of
Defence Forces (CDF)

The previous office of Chairman Joint
Chiefs of Staff Committee was ended,
and a new CDF office created to
head all the units of The Armed Forces
of Pakistan.

(3)

The Impact of 26th and 27th

Amendments: Dowfall of Democracy,

Civilian leadership and Judicial

Oversight

Experts, Research institutes, and watch dogs all across the globe argued that the amendments undermined civil leadership, Democracy, and Judicial autonomy in Pakistan.

"This amendment undermines
Civilian Supremacy and Judicial
independence."

Here are some major devastating impacts on the political landscape of Pakistan.

(i)

Structural Reconfiguration of

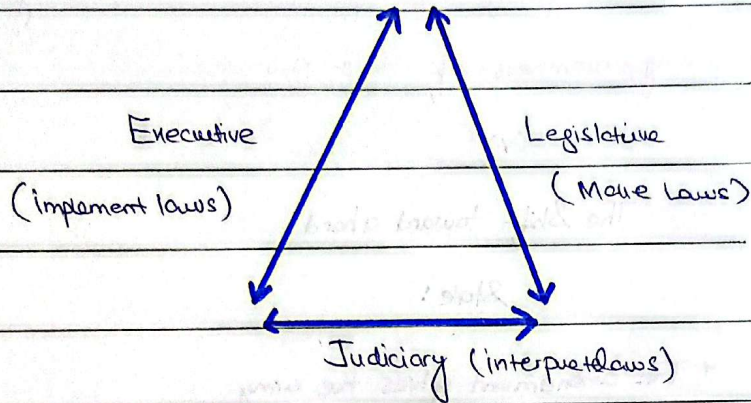
Judiciary:

26th Amendment ⇒ Made procedural changes to the matters concerning judiciary.

27th Amendment ⇒ Curtailed all the judicial powers and made it a mere tool of political elite.

(ii)

Weakness the Separation
of powers:



The governance is only productive when there is a division and balance of powers in a federal structure. However, the amendment has supremely shifted the balance toward Executive and Legislative.

(iii)

Curtailment of *Suo Moto*:
demise of powers

The *Suo Moto* action was used by the Supreme Courts whenever there was any constitutional violation, case of call for a legal accountability, and human rights issues. Now, with no such power in hands of the Courts, the political elite are absolutely free from accountability and human rights violations.

(iv)

demolished to concept of
public accountability:

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with all the amendments discussed previously, now the political elite becomes absolutely unaccountable for any legal, Constitutional, and other matters. Critics argue that now Judiciary is only a tool of threatening oppositions and instilling cases on opposing members of state politics.

(v)

The Shift toward a hard
State:

"The amendment gives the army
chief unprecedented
powers and legal immunity."

- Al-Jazeera.

Al-Jazeera argued the this power shifts will a most be beneficial to the Field Marshall of Pakistan. Transforming Pakistan towards a security state and making him "constitutionally" the most single powerful person in Pakistan.

(vi)

Transfer of Judges, a tool for
threatning Judges:

post the amendment, two senior judges resigned on the spot. this amendment gives a power of transfer to a judge which is non-compliant to the political elites. These propositions have made the judiciary a subordinating body of Executive and legislative and competency hindered the Autonomous Status ^{and} power.

(vii)

Constitutional Immunity has

undermined Democracy:

Accountability of the leaders is the very essence of a true democracy. With constitutional immunity to the Field Marshall and President of Pakistan, the very basic fabric of democracy has been destroyed and these leaders are absolutely free from any accountability.

(viii)

Public trust has Eroded:

With the 18th and 19th amendment, the public has been very skeptical. Despite media framing, the entire public of Pakistan (vast majority) view the Judicial Curtailment as a devastating measure and change. Moreover, the entire Islamic community views immunity as unIslamic.

(4)

Conclusion :

The two amendments, have seriously curtailed the powers of judiciary, made Pakistan a security state, vested powers in hands of few elites, and ruptured the political stability of the nation in long-term. In a nutshell, these amendments, if not the most, are one of the most serious and devastating changes to the Constitution of 1973 and have both short-term and long term repercussions for Pakistan.