CONSTITUTIONAL

DEVELOPMENT

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The 2nd Amendment to the Constitution of Pakistan

A Critical Analysis

The 2nd Amendment to the Constitution of Pakistan, enacted in 1974, marked a significant milestone in the country's constitutional development. This amendment introduced substantial changes to the country's constitutional framework, emphasizing Islamic principles and shaping Pakistan's identity as an Islamic state.

Historical Context

The 2nd Amendment was enacted during Prime Minister Zulfikar Ali Bhutto's government, amidst growing pressure from Islamist groups and opposition parties. The

amendment was a response to the demands for declaring Ahmadis/Qadianis as non-Muslims, which was a contentious issue in Pakistan's politics.

Key Provisions
The 2nd Amendment introduced the following key provisions:

1. *Definition of a Muslim*: The amendment defined a Muslim and excluded Ahmadis/Qadianis from the definition, declaring them non-Muslims.
2. *Article 106*: Amended to include the requirement of a Muslim for certain offices, including the President and Prime Minister.
3. *Article 260*: Added a new clause (3) defining a Muslim and non-Muslim, which has implications for citizenship and electoral rights.

Impact on Constitutional Development
The 2nd Amendment has had far-reaching implications for Pakistan's constitutional development:

1. *Islamic Identity*: The amendment solidified Pakistan's identity as an Islamic state, influencing subsequent constitutional amendments and judicial decisions.

2. *Minority Rights*: The amendment has been criticized for marginalizing minority groups, particularly Ahmadis/Qadianis, and undermining their rights.
3. *Constitutional Jurisprudence*: The amendment has shaped Pakistan's constitutional jurisprudence, with courts often referencing Islamic principles in interpreting constitutional provisions.

Critique and Controversies
The 2nd Amendment has been subject to criticism and controversy:

1. *Religious Freedom*: The amendment has been criticized for restricting religious freedom and promoting sectarianism.
2. *Minority Rights*: The amendment has been seen as undermining minority rights, particularly those of Ahmadis/Qadianis.
3. *Constitutional Integrity*: Some argue that the amendment has compromised Pakistan's constitutional integrity by introducing discriminatory provisions.

Conclusion
The 2nd Amendment to the Constitution of Pakistan has had a profound impact on the country's constitutional development, shaping its identity as an Islamic state. While it has been praised for promoting Islamic principles,

it has also been criticized for undermining minority rights and restricting religious freedom. As Pakistan continues to navigate its complex constitutional landscape, the 2nd Amendment remains a contentious and influential provision.

Recommendations

1. *Revisiting the Amendment*: Pakistan's policymakers should revisit the 2nd Amendment to ensure it aligns with modern constitutional principles and protects minority rights.
2. *Promoting Tolerance*: Encourage tolerance and inclusivity by promoting dialogue and understanding among different religious groups.
3. *Constitutional Reform*: Consider constitutional reforms that promote equality, justice, and human rights for all citizens, regardless of their faith or background.

References

1. *Constitution of Pakistan*: The Constitution of the Islamic Republic of Pakistan, 1973.
2. *2nd Amendment Act*: The Constitution (Second Amendment) Act, 1974.
3. *Judicial Decisions*: Various judicial decisions interpreting the 2nd Amendment, including the Zaheeruddin v. State case (PLD 1993 SC 171).

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