

Revitalization of Parliamentary Democracy in Pakistan under 18th Amendment

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Abstract: Pakistan's constitutional history witnessed many civilian and military dictators who assumed de facto powers by refusing to act under the Constitution as ceremonial heads. It created hurdles in the evolution of democratic parliamentary culture in the state. Parliamentary democracy collapsed four times in Pakistan due to escalating political aspiration of military Generals, mismanagement and unstable institutional development. The varying constitutional models (Parliamentary to Presidential and Quasi Presidential) and then amendments in 1973 Constitution (8th and 17th) had distorted parliamentary democracy, diluted parliament's sovereignty and denied people's rights. After transition of power from military to civilian rule in 2008, it was imperative to correct the democratic course by restoring 1973 Parliamentary Constitution. Apart from this, it was also aimed under historic Charter of Democracy to reinforce parliamentary democracy, ensure provincial autonomy, independence of judiciary and Election Commission and to ensure a tangible socio-economic development of the state. The present paper seeks to study the attempts made by Pakistan People Party's lead government to restore the parliamentary spirit of the Constitution under landmark 18th Amendment.

Keywords: Democracy, Pakistan, Parliament, 18th Amendment

I. Introduction

Over the evolution of almost nine centuries, British have been developed into a parliamentary democracy as a model called "Westminster style of parliamentary democracy". It was adopted by other states of the world i.e., Australia, Canada, New Zealand, India and Pakistan with some minor or major changes. Lord Dicey gave the classic exposition of the doctrine of parliamentary sovereignty:

The principle of parliamentary sovereignty means neither more nor less than this, namely, that Parliament... has, under the English Constitution, the right to make or unmake any law or whatever; and, further, that no person or body is recognized by the law of England as having a right to override or set aside the legislation of the Parliament.[1]

In 1947, the founding fathers envisaged the nascent state of Pakistan to be a federal parliamentary democracy. The newly established state suffered with the distress of the early death of its founder Quaid-i-Azam Muhammad Ali Jinnah in 1948, followed by the assassination of first Prime Minister, Liaquat Ali Khan, in 1951.[2]

The first Constitution of Pakistan (1956), adopted after the struggle of almost eight years envisaged parliamentary form of government. It provided the President as a ceremonial head of the state, where the real executive power was bestowed in the Prime Minister and his Cabinet.[3] However, ill-fated military interventions shifted the political system from federal parliamentary to a centralized presidential model. These dictatorial regimes (1958, 1962 and 1969) did not let the spirit of pluralism to be developed in a parliamentary constitution.[4] 1962's constitution; the brain child of Ayub Khan was a clear diversion from parliamentary system and it introduced military tailored presidential system.[5]

The Constitution of 1973, re-write Pakistani parliamentary history when the consensus of almost all political parties in the House were developed under the charismatic leadership of Zulfikar Ali Bhutto. It revitalized the nation's dream to achieve a parliamentary democracy with its true spirit.[6] However, the Constitution, framed by an elected government, returned the country to parliamentary dispensation after the long sufferings of dictatorship.

The civilian rule under the parliamentary system proved short lived. In 1977, the military under General Zia-ul-Haq toppled Bhutto's government on the basis of allegation of electoral rigging manipulated by Pakistan National Alliance (PNA).[7] The military dictator dissolved the Parliament, imposed Martial Law and held the Constitution in abeyance. [8] He, like other dictators, showed no respect to the Constitutional sanctions and punishment to abrogate the Constitution including the Article-6. [9] He vowed to hold elections within 90 days for the sake of restoration of democracy which he postponed for almost eight years.[10] With the support of religious right he used a rubber-stamp parliament to pass the notorious 8th Amendment empowering the President under the Clause 58 2(B), to dissolve the National Assembly, appoint military service chiefs, judges

and provincial governors.[11] With the adoption of the 8th Amendment the parliamentary character of government turned into a quasi-Presidential. It, in actuality provided a shift of power in President's goodwill.

However, President Zia's demise in August 1988 marked a new beginning for democratic spell in Pakistan. The military apparently agreed to transfer the power to PPP under the leadership of Benazir Bhutto with the condition that it would not disturb the institutional autonomy and corporate interests of military.[12] Nevertheless, the regime could not sustain long and failed to deliver because Benazir attempted to assert control over military, resulted in the government's dismissal in 1990.[13] It was dismissed mainly on the charges of corruption and inefficiency. Similarly, two successive civilian governments i.e., Pakistan Muslim League-Nawaz's government (1990-93) and Pakistan People Party's rule (1993-96) were also dismissed on the same charges of corruption, inefficiency and mismanagement. [14]

The successive regimes, on the other hand, contributed in a very limited way towards growth of democratic process. Both have confirmed autocratic tendencies, after assuming power and made little effort in engaging the government-opposition dialogue and consensus-building.[15] The legislation during these regimes has been carried out by ordinances, rather than through debate, on the floor of house.[16] Therefore, extra-parliamentary devices continued to dictate Pakistani politics. Thus, National Assembly has not been able to develop as an institution that could promote democratic practices.

However, Mian Muhammad Nawaz Shareef remained somewhat successful to restore the parliamentary democracy during his second regime (1996-1999) through 13th Constitutional Amendment. The Amendment reversed the changes made by the 8th Amendment. The Article 58-2 (b) which gave powers to President in dissolution of National Assembly and making key appointments was deleted.[17] Now the President again shall have to act on the advice of the Prime Minister before taking any step which reflects the true spirit of parliamentary norms. However, General Pervez Musharraf's coup in October 1999 abruptly ruined the state's transition to democratic rule.

Musharraf deposed the democratically elected government of Prime Minister Nawaz Sharif. He also designated himself as the Chief Executive of the country, held the constitution in abeyance and dissolved assemblies to impose military rule.[18] Although the coup was challenged in the Supreme Court of Pakistan by the leadership of PML (N) where it was nothing unnatural that Justice Irshad Hassan Khan, under doctrine of necessity, held that Gen Musharraf had "validly assumed power by means of an extra-constitutional step, in the best interest of the state".[19]

It is believed that during the Musharraf regime, the Parliament suffered as an institution as it was downgraded to subservience under the Executive. The provision of Legal Framework Order (LFO-2002) and the 17th Amendment under the regime had made the Constitution quasi presidential. It gave enormous powers to the President at the expense of the Prime Minister, undermined the parliamentary sovereignty. Section 58(2)(b) had made the parliamentary structure unstable as Prime Minister, his cabinet and legislators could function in an independent manner.[20] The LFO's provision that restricted a person from holding the office of Prime Minister for more than two terms was not a universal practice in parliamentary system, such restrictions become redundant. Similarly, the Parliament was not used for any tangible policy formulation and legislation leaving One-man rule in the country made it practically irrelevant as benefiting from its collective wisdom in making policies. During five years, from 2002-2007, government promulgated 134 Presidential Ordinances while the National Assembly passed only 51 Bills.[21] Under President Musharraf Pakistan was converted from a Parliamentary democracy to a semi presidential system where decision making was the authority of one person.

However, the opposition to the Musharraf's regime was growing in one way or the other. Finally, an organized opposition of 15 political parties appeared in 2005 with the name of Alliance for the Restoration of Democracy (ARD). Both major political parties of the country i.e., Pakistan people's Party and the Pakistan Muslim League (N) were also included in ARD.[22] The core issues like suspension of the Chief Justice of Pakistan, mishandling *Lal Masjid* issue, restrictions on Media and worsening the security situation of the state contributed in the down fall of President Musharraf. On many occasions he himself confessed that his popularity graph was declining. The *Dawn's survey* showed that 54.5 per cent of urban population believed that military should have no part in politics while 65.2 per cent Pakistanis desired him to step down.[23] In the same way, the majority of the people believed that it was appropriate time for him to make an exit from the political scene and to tolerate the democratic process to run its course.

II. Charter of Democracy: The Magna Carta of Pakistan

The acrimony between PML (N) and PPP has rooted in their style of politics and ideology. These two major political parties were marked as pro and anti-establishment. Historically, these differences were exploited by anti-Democratic forces.[24] The efforts to bring both the political parties closer started in late 2002, where Benazir Bhutto was in process of negotiations with PML (N), represented by Ishaq Dar, a very close associate of Mian Nawaz Shareef.[25] The negotiation process was followed by extensive intra-party consultation to restore the democratic custom in Pakistani society. In order to strengthen the newly formulated process of negotiation,

Benazir Bhutto also visited Jeddah in February 2005 to meet Nawaz Sharif, witnessed by Farooq H. Naek (PPP) and Ahsn Iqbal (PML-N).[26] The exchange of ideas between the democratic forces resulted in a draft of the historic Charter of Democracy (COD), was formally signed in London in 2006. It is generally agreed that COD is third most important document regarded as Magna Carta of Pakistan followed by the Pakistan Resolution of 1940 and the Constitution of 1973 which built consensus in the State.[27] COD showed the will of the majority political parties to restore parliamentary democracy in Pakistan, later on endorsed by some fifteen political parties in All Parties Conference (APC).[28]

The historic document of the charter consists of four major components i.e., Code of conduct, Constitutional alteration, provisions related to the civil-military relations and above all conduct of the free and fair elections. No doubt, it articulated imperatives of transition from military-led controlled democracy to normative democratic governance in Pakistan.[29]

III. Elections 2008 and Transition of Power to Democratic Government

As mentioned earlier, the democratic forces of the country maintained pressure on President Musharraf for the conduct of free, fair and transparent elections in Pakistan. However, after the unfortunate assassination of Benazir Bhutto in December 2007, the General Elections were conducted in early 2008 under an uncertain environment. These Elections turned the tide against Pro-Musharraf forces which resulted into a PPP lead government.[30] Hence, it provided a mean to complete the transition from military to democratically elected government in Pakistan.

General Musharraf, although, tried to grip the presidency after 2008 Elections but, ultimately, rather than to wait for an impeachment, he had to reign on August 18, 2008.[31] Following his resignation on September 6, PPP's Co-Chairman Asif Ali Zardari, the widower of Benazir Bhutto, was elected as the new President of Pakistan.[32] This political development in Pakistan paved the way for the restoration of parliamentary democracy according to its true spirit and the commitment made in historic COD. In this way the installation of an elected government by the popular vote has completed transition to democracy after ten years of military dictatorship. The parliamentary Constitution of 1973 which was distorted during Musharraf regime for his best survival was gradually restored by the newly elected democratic government in its true federal-parliamentary spirit.

IV. Establishment and working of Parliamentary Committee on Constitutional Reforms

After the formation of government on the proposal of President Zardari, a committee was constituted to recommend amendments in the Constitution. [33] National Assembly also passed a resolution to constitute the committee, which was formed by the Speaker accommodating all stakeholders in the Parliament.[34] After making its rule and procedure, the Parliamentary Committee on Constitutional Reforms (PCCR), under chairmanship of Senator Mian Raza Rabbani of People's Party, held 77 meetings and proposed amendments in 102 articles of the Constitution.[35] Famous 18th Amendment has accomplished the civilian rule and parliamentary democracy in Pakistan where almost all political parties were committed to restore the democratic system. Despite of its passage some issues were recorded by members of different political parties as "note of reiteration".[36] National Assembly approved the bill on April 8, 2010, with 292/342 votes, to revive parliamentary democracy.[37] Unlike past history of the country, the Opposition played a very constructive role in bringing the system back to its original spirit.

V. The Restoration of 1973 Constitution

The 18th Amendment passed by 13th National Assembly reclaimed parliamentary spirit of the Constitution of 1973. The Parliament, for the first time in the history of Pakistan, denied validating dictator's instruments. It repealed LFO 2002, Chief Executive Orders, and the 17th Constitutional Amendment by considering those illegal and unlawful. [38] PCCR also amended Article 6 of the Constitution dealing with the issue of "high treason". It was agreed that suspension of the Constitution, holding it in abeyance or any similar effort shall be measured high treason. To stop the judicial legalization of the military coups it has been added that such an act of high treason would not be validated by any court of law.[39] The amendment in Article 6 was brought to discourage any military takeovers in future. The role of military was eliminated from the politics and supremacy of the Parliament was brought in conformity with the Article 238 and 239 of the Constitution. It is clearly stated that an amendment in the Constitution may be taken by act of *Majlis-e-Shoora* or the Parliament.[40] Whereas, Article 239(5) of the Constitution also tells about the preeminence of the Parliament, "No amendment of the Constitution shall be called in question in any Court on any ground whatsoever." [41]

VI. Issue of the Provincial Autonomy

The provincial autonomy was the longstanding demand of provinces of Pakistan. 18th Amendment considered the issue more seriously and deleted the Concurrent List from 4th schedule of the Constitution which

gave powers to the provincial assemblies to legislate on any matter not included in the Federal List.[42] It also gave a proper share to legislate on the subject enumerated in the Federal List Part-II, through activation of the Council of Common Interest (CCI).[43]

It seems the process was carried out according to the consensus developed under COD, in 2006. The Amendment devolved eighteenth ministries to the provinces which was, no doubt, a crucial stage for the provinces to accommodate.[44] However, sufficient time was spared for these provinces to accommodate the devolved ministries. The amendments also considered and retain the consultative role of the provinces before the construction of hydro-electric power station in any province.[45] The PCCR studied National Finance Commission under the Article 160 in context with distribution of revenue between Center and provinces. Similarly, two new clause 3(A) and 3(B) were inserted in the Constitution in Article 160. Clause 3(A) ensured that the share of any province shall not be less than the previous award's share, whereas clause 3(B), dealt with the administration and proper implementation of the NFC award.[46] According to the clause it was also binding for the authorities to present the report before both the houses of the Parliament and provincial assembly to make sure of good governance. However, to ensure economic stability, Article 161, guaranteed to a province where the well-head of oil and natural gas is located, shall be its beneficiary.[47] Therefore, the report fully strengthened participatory federalism under the spirit of parliamentary democracy.

VII. Restoration of Parliamentary Structure under 18th Amendment

The term Parliamentary Sovereignty, in the word of a famous Political Scientist Dicey, "is a system where the Parliament has the right to make or un-make any law whatsoever". This definition provided a foundation to the Westminster style of parliamentary systems of governance, adopted by many other states of the world.[48]

The 18th Amendment has offered a return to the parliamentary supremacy in Pakistan. The President of Pakistan being the ceremonial head of state was again bound to act on Prime Minister's advice as narrated in the original text of the Constitution of 1973. The Constitution had made it clear the President can dissolve the National Assembly only if the Prime Minister advice him to do so. Therefore, the 18th Amendment invalidated the inclusion by the 8th and 17th Amendments where the President was empowered to dissolve the House on his own. No doubt, this abuse has been used mainly to derail the democratic development in Pakistan. Currently under 18th Amendment the President was confined to play a ceremonial role according to parliamentary norms.[49] The PCCR, by taking into consideration, played a Herculean role of bringing back supremacy of the Parliament in the state Constitution with the consensus of all political actors or stakeholders.

As political history of Pakistan reveals that many dictators have legalized their rules by illegal referendums, however, after the promulgation of 18th Amendment the President shall have to seek an approval of the Parliament to hold a referendum. In the same way, the Presidential powers were further limited under Article-75, where the Presidential assent to a bill was reduced to ten instead of thirty days. [50] It seems that it was to prevent undue delay of the part of President to ensure timely legislation.

In order to bring the provincial governments in lines with parliamentary norms, the 18th Amendment has made it mandatory for the head of state to have the Prime Minister's advice in the appointment of governors who should be a registered voter and resident of the concerned province. [51] However, the governors were also bound to act on the advice of Chief Ministers under the Article 105, it ensures parliamentary spirit in the provinces. [52] They will have to act as ceremonial heads because the real executive authority shall be enjoyed by the Chief Minister and his cabinet of the respective province.

Similarly, the President would appoint the Chairman of Public Service Commission and Services Chiefs under the Article 242 and 243 on Prime Minister's advice and not in his own discretion as inserted by the RCO, 1985.[53] It was largely believed that these checks would prevent any further military adventure in the country and hopefully empowered the Parliament to restore the Parliamentary incomparability in Pakistan according to COD.

According to the Article-90 the Prime Minister being the Chief Executive of the country and his Cabinet colleagues in capacity of his associates shall exercise managerial authority in the name of the President.[54] While undoing the President as a real executive, the amendment has restored his ceremonial and titular role in the state affairs. The historic amendment has also ended any chance of 'Horse Trading' and maneuvering or delaying in the transfer of power by the President. At present the National Assembly shall hold its first session on 21st day following the election if not earlier called by the President. After election of Speaker, Deputy Speaker and Prime Minister, the federal government shall specify its rules of the business for the smooth and fair conduct of parliamentary business.[55]

Under the Article 92, the question regarding the strength of the Cabinet members was also reconsidered and fixed it at 11 per cent of the Parliament's total membership.[56] In order to avoid any kind of disturbance in the present set up (coalition governments) it was agreed to follow the lines from next General Elections where PCCR has reshaped Article 106 which increased the number of seats for women and minorities. Similarly, the

working days for provincial assemblies were increased from 70 to 100 with the addition of new responsibilities by devolution of ministries.[57] The 18th amendment empowered the parliamentary leader of a party to de-seat any member who does not show respect to a party policy in the Parliament. Every member, according to the international practice in parliamentary systems, is bound to obey the party discipline. [58] Being a milestone, the 18th Amendment has brought insightful changes in the intergovernmental coordination institution. It modified two federal institutions:

7.1 Council of Common Interests (CCI)

The existing body of the Council of Common Interests (CCI) has been strengthened to perform the increased responsibilities under Article 153 in the auspicious of Prime Minister. However, along with Chief Ministers of all four provinces and three State Ministers must assume their responsibilities within 30 days of Prime Minister's Oath of the office.[59] In order to increase the jurisdiction of CCI, some subjects from omitted Concurrent List and few from Part I of the Federal Legislative List has been transferred to Part II, representing shared responsibilities of the Federal Legislature.

After passage of the 18th Amendment, Federal List part-II came under the domain of CCI including electricity and major ports. The council shall be in coordination with the parliament with respect to its activities and shall submit its annual report to Senate and National Assembly both. The CCI has been entrusted with its role of supervision, decision making and responsibilities over the Federal Legislative List Part II.[60] CCI as the constitutional body would play its role as effective forum for dispute resolution and economic development of the state.

7.2 National economic Council (NEC)

The PCCR also reviewed NEC whose jurisdiction shall be to give the proper recommendations to the government with respect to improve the economic condition of the state. It actually restructured NEC and included the Chief Ministers of all the federating units and their nominees as its members. Prime Minister, on the other hand, was given the authority and responsibility to nominate four other members for smooth functioning of the institution. The Council is required to submit an annual report to the Senate and National Assembly and it shall remain responsible and accountable to the Parliament. [61]

VIII. Senate Role under the Participatory Federalism

The Senate of Pakistan was given some financial role under 17th amendment however it was not treated at par with National Assembly (directly elected). After 18th Amendment the presidential powers with respect to the promulgation of ordinances was linked with senate and national assembly. The president may promulgate ordinances when the both the houses of parliament are not in session.[62] Originally under 1973 constitution it was related to National Assembly. Now parliament got its position as supreme law making institution instead of practicing legislation through presidential ordinances. The senate was also given the due role in different parliamentary committees and the government was kept accountable to both the houses on the spirit of parliamentary federalism. The presidential power for the imposition of emergency was subjected to the approval of each house. In case of provinces, a resolution of the provincial assembly of the concerned province shall be required.[63] The CCI, NEC and auditor general's reports shall be presented separately in senate and national assembly for approval. With the addition of four minority's seats the total strength of senate was increased to 104 whereas the working days were increased from 90 days to 110 days.[64]

IX. Renaming NWFP and Issue of New Provinces

Since its creation Pakistan faced the grave issue of provincialism which led to secession of the eastern wing. [65] The changing of name from NWFP to KPK under 18th amendment has increased sense of deprivation in the people of Hazara. In April 2010 when the Hazara Province movement turned aggressive more than a dozen of people lost their lives.[66]

Senator S.M.Zafar and Wasem Sajjad of (PML-Q), has recorded note of reiteration/dissent on behalf of their party.[67] Sardar Shahjahan Yousaf (PML-Q), protested and moved an amendment in the 18th amendment bill which suggested "SARHAD" for KPK. Senator Raza Rabbani, chairman PCCR opposed his suggestion. Sardar Shahjahan Yousaf added that if the government failed to understand the demands of the people of Hazara than the people shall move forward for the creation of a separate province "HAZARA".[68] Prof. Dr Razia Musarrat explained that the creation of new provinces would strengthen the federation but this could only be done with the consent of the concerned units. She rules out the creation of the Hazara province on linguistic basis as the government of Khyber Pakhtunkhwa would not accept it. [69] This debate on floor of house opened another Pandora box for the creation of new provinces which may get pace in future.

X. Restructuring Judiciary

The 1973 constitution has empowered the president with respect to appointment of the judges of the Supreme Court and High Courts. This method was criticized on various grounds and raised many questions on the independence of judiciary. The PCCR recommended for setting up of a judicial commission under article 175 (A) for the said appointments. The judicial commission composed up of Chief Justice of Pakistan (chairman), two senior most judges (members), a retired judge of Supreme Court (member), federal law minister (member), attorney general (member) and senior advocate of Supreme Court (member) shall be the other members.[70] The Judicial Commission has balanced the powers between the President and the Parliament with respect to judicial appointments.

The judicial commission shall process the name to a special parliamentary committee for the parliamentary approval. The committee consists of eight members equally accommodating both the houses along with government and opposition members shall confirm judicial appointments. The committee after confirmation of names shall move it to president for appointment of judges. [71] The inclusion of parliamentary committee in the process of appointment in judiciary also confirms the supremacy of the parliament.

XI. Election Commission

18th amendment in the constitution of Pakistan considerably strengthened election commission of Pakistan. It increased term of office of Chief Election Commissioner (CEC) from three to five years.[72] The appointment of chief election commissioner shall be carried out with the consensus of Prime Minister and leader of opposition in national assembly. They will send three names to the parliamentary committee of 12 members constituted from both the houses and accommodating treasury and opposition benches. The person agreed by the Parliamentary Committee shall be appointed as CEC by the President. The Election Commission of Pakistan shall have five permanent members including the Chief Election Commissioner.[73] The Commission shall have authority to deal with all the affairs with respect to the conduct of elections in Pakistan. This amendment in constitution will guarantee the smooth transfer of power by means of vote in vote out in Pakistan.

XII. Caretaker Government

In Pakistan there have always been the questions on the transparency and fairness of the election. One of the reasons behind the fact was the caretaker set up, which was appointed for stop gape arrangement. After 18th amendment appointment of caretaker set up is no more discretion of the president. Now the president shall appoint caretaker Prime Minister in consultation with the out-going Prime Minister and the Opposition Leader. Rest of the cabinet members shall be appointed on the advice of the Caretaker Prime Minister.[74] Alike provisions have been given for the appointment of Provincial Caretaker setup. This modification will help in discouraging rigging in elections and will facilitate in the smooth transition of the power.

XIII. Conclusion

Parliamentary democracy in Pakistan has suffered upheaval and could not evolve as a political system. However the Pakistan Peoples Party's lead government with the consensus of all political parties in the house has successfully restored the system in its original spirit. The 18th Amendment has curtailed the powers of President and vested them in Prime Minister (real executive) and the parliament. It deleted the Presidential powers 58-2(B) with respect to the dissolution of assemblies. The power to dissolve assembly and major appointments are now subject to the "advice" of Prime Minister as per the affairs in parliamentary governments.

The parliament has been strengthened by the provision of some roles in form of parliamentary committees. The role of opposition has been acknowledged with the provision of due share in parliamentary committees for the smooth conduct of parliamentary business. The development of consensus on the appointment of judges, chief election commissioner and caretaker government was a clear sign of maturity from the political parties who have learnt from dictatorial sufferings. The central-provincial relation has been revisited to ensure participatory federalism under 18th amendment. The revitalization of CCI and NEC, headed by Prime Minister are the sign of parliamentary strength along with provincial autonomy. All these steps are meant to make the Prime Minister as the real chief executive of the country and to ensure sovereignty of the Parliament.

The position of Parliament has been restored under the 18th Amendment because it was used as a rubber stamp in the regimes of dictatorships. The role of the parliamentary committee in the appointment of judges, Chief Election Commissioner and care taker Prime Minister too is a great step towards strengthening the role of Parliament. Moreover, the reports of the CCI, NEC and NFC are required to be submitted before the Parliament. These reports are subject to be submitted to both the houses of the parliament which enhanced senate's role. The position of senate has also been strengthened with the inclusion of its membership in parliamentary committees.

The 18th amendment has comprehensively dealt with the matter of balance of power at the Centre. It has set the direction for Pakistan on the track of democratic federal parliamentary system which is necessary for sustainability of democratic norms. The framers of the amendment under the leadership of Senator Mian Raza Rabbani have visualized a stable and balanced parliamentary democracy for the future of Pakistan.

Almost all major ingredients for a strong parliamentary system were revitalized in our political and constitutional set-up under 18th amendment. It needed political will and commitment on the part of leadership to implement it in its letter in spirit. The implementation commission has been formed which needed to be cooperated and coordinated for its true implementation. Finally, the political process should be allowed to evolve with the development of vibrant society in compatibility with parliamentary system.

References

- [1] Ahmad Bilal Mehboob and Hamza Alvi, "Challenges to the Independence and Sovereignty of Parliament of Pakistan," in Maqsood Hasan Nori and Muhammad Hanif, eds., *Eighteenth Amendment Revisited* (Islamabad: Institute of Policy Research, 2011), 56.
- [2] G. W. Choudhary, *Democracy in Pakistan* (Dacca: Green Book House, 1969), 26.
- [3] Safdar Mahmood, *Pakistan Political Roots & Development 1947-1999* (Karachi: Oxford University Press, 2010), 23-24.
- [4] For details, see Hasan Askari Rizvi, *Democracy in Pakistan*, Paper prepared for the Project on State of Democracy South Asia as part of the Qualitative Assessment of Democracy Lokniti (Programme of Comparative Democracy) Centre for the Study of Developing Societies Delhi.
- [5] Ibid.
- [6] *Parliament and the State in Pakistan: Case for Constitutional Reforms*, (Islamabad: Strengthening Democracy through Participatory Development, 2008), 16.
- [7] Hamid Khan, *Constitutional and Political History of Pakistan* (Karachi: Oxford University Press, 2004), 129.
- [8] Ibid., 131.
- [9] *Parliament and the State in Pakistan*, 23.
- [10] Ibid.
- [11] Ibid.
- [12] Riaz Ahmed Shiekh, "A State of Transition: Authoritarianism and Democratization in Pakistan," in *Asia Journal of Global Studies* Vol. 3, No. 1 (2009), 4-6.
- [13] Tahir Kamran, *Democracy and Governance in Pakistan* (Lahore: South Asia Partnership Pakistan, 2008), 137.
- [14] Ibid., 143-145.
- [15] Saeed Shafiqat, "Democracy in Pakistan: Value Change and Challenges of Institution Building," *The Pakistan Development Review* 37: 4 Part II (1998):10.
- [16] Ibid., 13.
- [17] Ibid., 15.
- [18] Ashok K. Behuria, "How Military Dominates the Political Space in Pakistan: A Study of Musharraf's Rule (1999-2008)," *Journal of Peace Studies* 16, Issue 1-2, January-June, 2009,6-8.
- [19] Ibid.
- [20] Ibid.
- [21] Ibid.,13-15.
- [22] The Alliance for the Restoration of Democracy (ARD) was formed in response to "Musharraf's military dictatorship" (Political Parties of the World 2005, 457) and "called for an end to military rule" (Freedom House 2005, 479) for detail see <http://www.refworld.org/country,,IRBC,,pak,,440ed73b2f,0.html> (accessed 29 July, 2013)
- [23] Tahir Kamran, *Democracy and Governance in Pakistan* (Lahore: South Asia Partnership Pakistan, 2008), 236.
- [24] Mian Raza Rabbani, *A Biography of Pakistani Federalism Unity in Diversity* (Lahore: M/s Printing press,2011), 129.
- [25] Ibid., 130.
- [26] Ibid., 133.
- [27] Mian Ijaz ul Hasan, "Some call it the Magna Carta," *Daily Times*, May 27, 2006.
- [28] Dr.Fahmida Mirza, "A Milestone in Pakistan's Parliamentary Democracy," *The Parliamentarian Journal of the Parliaments of Commonwealth*, issue one XCII (2011): 14-18.
- [29] Charter of Democracy: Citizens' Tracking Report, Centre for Civic Education, (Islamabad: March 2010.)
- [30] Ashok K. Behuria, "How Military Dominates the Political Space in Pakistan: A Study of Musharraf's Rule (1999-2008)," *Journal of Peace Studies* 16, Issue 1-2, January-June, 2009, 18.
- [31] Pakistani President Pervez Musharraf, facing impeachment on charges drawn up by the governing coalition, has announced that he is resigning. He went on national TV to say that while he was confident the charges would not stand, this was not the time for more confrontation. He was accused of violation of the constitution and gross misconduct. - See more at: <http://www.tafreehmella.com/threads/pakistans-musharraf-steps-down.17364/#sthash.0ihZ7Avz.dpuf> (Accessed 17 July,2013)
- [32] National Assembly Proceedings, September 6, 2008.www.na.gov.pk
- [33] President's Speech to the Joint Setting of Parliament on 28, March 2009, Available <http://drfarrukhmalik.com/blog/2008/09/20/transcript-of-president-zardaris-first-speech-to-joint-session-of-parliament/> (Accessed 12 July,2013)
- [34] National Assembly of Pakistan Proceedings, April 10, 2009.www.na.gov.pk
- [35] The Report on Constitutional (Eighteenth) Amendment Bill (Islamabad: National Assembly of Pakistan, 2010).
- [36] Ibid.
- [37] Mian Raza Rabbani, presented 61 pages bill in joint sittings of parliament. He dedicated the historic day to Banazir Bhutto Shaheed. He said that "The bill ensures supremacy of parliament, and guarantee provinces rights." He further expressed that that the bill recognized the peoples struggle for democracy for details see National Assembly of Pakistan Proceedings, April 8, 2010.
- [38] The LFO 2002 (Chief Executive Order No.24 of 2002), the Legal Framework (Amendment) Order, 2002 (Chief Executive Order No.29 of 2002) and the legal Framework (Second Amendment) order,2002 (Chief Executive Order No.32 of 2002),are hereby declared to have been made without lawful authority and of no legal effect and ,therefore shall stand repealed. The constitution (17th Amendment) Act, 203 (Act No.III of 2003),is hereby repealed for detail see The Report on the Constitutional (Eighteenth) Amendment Bill, 2010 (Parliamentary Committee on Constitutional Reforms, National Assembly of Pakistan).

- [39] Article No. 6. High treason.— (1) Any person who abrogates or subverts or suspends or holds in abeyance, or attempts conspires to abrogate or subvert or suspend or hold in abeyance, the Constitution by use of force or show of force or by any other unconstitutional means shall be guilty of high treason. (2) Any person aiding or abetting or collaborating the acts mentioned in clause (1) shall likewise be guilty of high treason. (2A) An act of high treason mentioned in clause (1) or clause (2) shall not be validated by any court including the Supreme Court and a High Court. (3) Majlis-e-Shoora (Parliament) shall by law provide for the punishment of persons found guilty of high treason.
- [40] The Constitution of Islamic Republic of Pakistan (As Modified up to the 28th February, 2012), Article 238.
- [41] Ibid., Article 239(5).
- [42] Muhammad Hanif and Muhammad Nawaz Khan, “Eighteenth Amendment Revisited,” in *Eighteenth Amendment Revisited*. Maqsood Hasan Nori and Muhammad Hanif, ed at, (Islamabad: Islamabad Policy Research Institute, 2011), 40.
- [43] Ibid., 41-42.
- [44] Shahid Hamid, “Impact of 18th Constitutional amendment on Federations-provinces Relations,” <http://www.pildat.org/Publications/publication/PAP/Impactofthe18thConstitutionalAmendmentonFederation-ProvincesRelations-ReportJuly2010.pdf> (Accessed on 11 July, 2013)
- [45] Ibid
- [46] The share of the province in each award of NFC shall not be less than the shares given in the previous award for detail see Mian Raza Rabbani, 147.
- [47] The federal and provincial finance ministers shall monitor the implementation of the award biannually and present their reports before both the houses of the parliament and the provincial assemblies for detail see Mian Raza Rabbani, 150-151.
- [48] Sydney D. Bailey, *British Parliamentary Democracy* (Boston: Houghton Mifflin Company, 1966), 18.
- [49] After undoing and deletion of LFO 2002 and 17th amendment the powers shifted to the prime minister and his cabinet according to the international standards of parliamentary traditions. The president is now limited as the ceremonial/nominal head of the state .for detail see Raza Rabbani, 103-123.
- [50] For details see The Constitution of Islamic Republic of Pakistan (As Modified up to the 28th February, 2012), Article 48.
- [51] Ibid.
- [52] Ibid., Article No. 105.
- [53] Ibid., Article No. 242, 243.
- [54] Ibid., Article No. 90, 91.
- [55] Amjad Abbas Magsi, “Balance of Power at the Centre: The President, Prime Minister & Parliament,” in *Eighteenth Amendment Revisited*. Maqsood Hasan Nori and Muhammad Hanif, eds (Islamabad: Islamabad Policy Research Institute, 2011), 67-68.
- [56] Ibid.
- [57] For details see The Constitution of Islamic Republic of Pakistan (As Modified up to the 28th February, 2012), Article No. 106.
- [58] “Impact of 18th Constitutional amendment on Federations-provinces Relations” (PILDAT, 39 Briefing Paper July 2010), 1-18.
- [59] Ibid.
- [60] Ibid.
- [61] Anwar Shah, “The 18th Constitutional Amendment: Glue or Solvent for Nation Building and Citizenship in Pakistan,” *The Lahore Journal of Economics* 17, September 2012, pp. 387–392.
- [62] Pakistan’s New 18th Amendment: More Stable, Democratic Government. April 23, 2010. Sepia Mutiny.Com/ia/archieve/006142.html (Accessed 19 July, 2013)
- [63] For detail see The Report on the Constitutional (Eighteenth) Amendment Bill, 2010, (Islamabad: National Assembly of Pakistan, 2010) Article No. 232, 233, 234.
- [64] “Impact of 18th Constitutional amendment on Federations-provinces Relations”, (Islamabad: PILDAT July 2010), 1-18.
- [65] Prof. Dr Razia Musarrat, “Constitutional Provisions on Creation of Provinces and suggested Model,” in *Eighteenth Amendment Revisited*. Maqsood Hasan Nori and Muhammad Hanif, eds (Islamabad: Islamabad Policy Research Institute, 2011), 157.
- [66] The 18th Amendment and the change in the name of NWFP to KPK created a sense of deprivation in the people of Hazara. More than a dozen people lost their lives in April 9, 2010 when the Hazara Province movement turned violent. For detail see Daily Shamal, Abbottabad 13 April, 2010.
- [67] The Report on the Constitutional (Eighteenth) Amendment Bill, 2010 (Islamabad: National Assembly of Pakistan, 2010), 21-23.
- [68] National Assembly of Pakistan, proceedings April 07, 2010. www.ns.gov.pk
- [69] Prof. Dr Razia Musarrat, “Constitutional Provisions on Creation of Provinces and suggested Model,” in *Eighteenth Amendment Revisited*. Maqsood Hasan Nori and Muhammad Hanif, eds (Islamabad: Islamabad Policy Research Institute, 2011), 191-192.
- [70] The Report on the Constitutional (Eighteenth) Amendment Bill, 2010 (Parliamentary Committee on Constitutional Reforms, National Assembly of Pakistan), Article 175-A.
- [71] Ibid.
- [72] “Impact of 18th Constitutional amendment on Federations-provinces Relations”, (Islamabad: PILDAT, 39 Briefing Paper July 2010), 1-18.
- [73] Ibid.
- [74] Ibid.