



RESEARCH PAPER

An Analysis of the Role of 13th National Assembly (2008-2013) in the Constitutional and Political Development of Pakistan

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ABSTRACT

In order to fulfill the administrative requirements of the military regime, General Pervaiz Musharraf (1999-2008) transformed the parliamentary form of government as originally provided by the 1973 Constitution of Pakistan into a quasi-presidential system. Afterwards, the government of Pakistan Peoples' Party (PPP) tried to revive the constitution in its original form. During its term of five years, it not only successfully incorporated 18th, 19th and 20th Constitutional Amendments but also kept the 13th National Assembly (2008-2013) more functional in terms of ordinary legislation mainly focusing on the socio-political welfare of the general public. Another milestone that was achieved during the said period was the approval of the 7th National Finance Commission (NFC) Award. The current study intends to review the functioning of the federal legislature during the said term of PPP in order to assess whether or not the Assembly effectively represented the general will by formulating public policies or worked as mere debating house. A descriptive and analytical methodology is used to find the conclusion. It has been revealed that the said Assembly remained vigorously active and functional during the 2008-2013 tenure of PPP government. Besides passing the abovementioned crucial Constitutional Amendments, it preferred to legislate for the welfare of general people particularly of women.

Keywords

13th National Assembly Constitutional Amendments, Institutionalization Legislative Initiatives, Women Empowerment

Introduction

As envisaged by Article 52 of the Constitution of Pakistan, the 13th National Assembly (2008-2013) was dissolved on the expiration of its five years term on March 16, 2013. The completion of tenure of democratically elected Assembly, the nomination of the Leader of the Opposition as a head of the Public Accounts Committee (PAC) and the formation of the Parliamentary Committee on National Security (PCNS), adopting a number of bills as well as the successful incorporation of the 18th, 19th and 20th Constitutional Amendments are landmark developments and achievements during the said tenure that were not seen before in the history of Pakistan. One may find that the 13th National Assembly of Pakistan carried out its business much better as compared to the performance of the previous Assembly (2002-2007), despite the fact that the latter body was less capable to deal with systemic dishonesty, corruption, and matters of national security in the context of War against

Terrorism (PILDAT, 2013). After the Zulfikar Ali Bhutto era (1971-1977), for the first time any elected Government consumed its due period of five years in office. The remarkable developments such as the 7th NFC Award, Aghaz-i-Haqooq-e-Baluchistan Package, assertive political reshuffles regarding Gilgit-Baltistan as well as FATA, 18th Amendment, allotment of 120 billion rupees to the province of Khyber Pakhtunkhwa (KP) in the form of net hydel proceeds and rise in Gas Development Surcharge (GDS) for Balochistan to redress the grievances of Baloch people are considered the revolutionary steps taken by the 13th National Assembly (Kanwal, 2017).

Although, the people of Pakistan welcomed military takeovers that had caused the downfall of the elected governments such as that of Z.A. Bhutto (1977) and of Nawaz Sharif (1999) but they considered General Musharraf's resignation from the post of Chief of the Army Staff (December 2007) as an initiative towards the establishment of a new democratic era. They actually had fed up with the continuation of military rule for an extensively longer period of time. In the backdrop of the assassination of Miss Benazir Bhutto (December 2007), the General Elections were held in 2008; they were relatively transparent and had no grave allegation of rigging as against the previous electoral practice wherein it had become a routine matter that political parties facing the electoral defeat blamed the rigging of election. That's why the political parties were happy with the results of election 2008 contrary to the prior practice of accusation. The most significant outcome of the said election was that the Pakistan Muslim League (Quaid-e-Azam) (PML-Q), despite the fact that it supported the military regime and was viewed as a probable winner, failed to succeed. It managed to get only 54 seats in the National Assembly out of 272 general seats. The PPP who had modified its title and become Pakistan Peoples' Party Parliamentarian (PPPP) contested the election and got 119 out of 342 total seats in the National Assembly hence becoming the largest parliamentary party in the newly constituted Assembly (Zikria, Ahmad & Qasim, 2019). As mentioned earlier, the assassination of Miss Benazir Bhutto proved a turning factor in favor of the PPP. As compared to that, the arch-rival of the PPP in past and now (2008) a coalition party, i.e. the Pakistan Muslim League-Nawaz (PML-N) could get 69 general seats. But the political situation seemed complex after the elections because there was not a single political party that had achieved the required majority to make the government. Despite being the majority party, the PPP could not establish the government at the federal level on its own. The PPP with the help of its ally Awami National Party (ANP), Jamiat Ulema-i-Islam (Fazlur Rehman) (JUI-F), and PML (N) formed coalition governments, at the central as well as provincial levels (Khan, Shah, & Azhar, 2019). Mr. Yousaf Raza Gillani, the PPP leader, became the Prime Minister by securing 264 votes in the National Assembly whereas his competitor Chaudhary Pervez Elahi secured only 42 votes despite favor of President General (r) Pervaiz Musharraf. In fact, the military-backed political party was defeated first time in the history of Pakistan by the opposition parties and could not establish a government (Zikria, Ahmad & Qasim, 2019). Muhammad Mian Soomro became caretaker President on 18th August 2007 after the resignation of General Pervaiz Musharraf as President of Pakistan. Afterwards, Mr. Asif Ali Zardari, the co-chairman of PPP, secured victory in the presidential election receiving 481 votes from the parliament in his favor hence became the 12th President of Pakistan (Khan, Shah & Azhar, 2019).

The leadership of the mainstream political parties like PPP and PML-N contested the general election of 2008 with the courtesy of the National Reconciliation Order (NRO) that was promulgated by President Musharraf in October 2007. Despite the fact that it made possible for the conduct of general election, the politicians and

media constantly kept criticizing the said NRO for a long time after its promulgation (Malik, 2008). It may be safely concluded that the NRO proved a sound base for the start of a new political era that consolidated democratic norms. It was the NRO which enabled the opposition to participate in the elections and defeat the PML (Q), the King's Party.

Legislation

Lawmaking is considered the principal job of a legislature among all kinds of political structures whether parliamentary or presidential. The 13th National Assembly focused on such lawmaking which could strengthen the democratic norms and values in Pakistan. In that perspective, the Assembly introduced legislation to remove weaknesses in the governance system, encourage women's representation and their influence in the political system as well as in society, safeguard minority rights and to introduce electoral reforms. The parliament tried to reshape the 1973 constitution in its true parliamentary spirit as envisaged by its original founders in 1973 and eliminated the constitutional amendments introduced by the previous governments, especially in the military regime of General Musharraf (Paasch, & Dayo, 2018). Though the performance of the parliament was not very much satisfying in the beginning however it later improved and the assembly succeeded to restore the 1973 Constitution that was distorted through unilateral amendments incorporated by the military dictators like Ziaul Haq and Musharraf (Hasnat, 2011; Naqvi, 2010; Burki, 2011).

Bills Presented in the 13th National Assembly

The size of legislation was significantly improved during the period of the 13th National Assembly, as 18 private members bills and 116 government bills were passed and 94 out of 134 bills were converted into laws (FAFEN, 2013). During the five years tenure of the said Assembly, 81 bills were turned into acts of parliament whereas only 51 bills had been passed by its predecessor i.e. the 12th National Assembly (2002-2007). Though the speed of legislation by the 13th National Assembly in its first year was relatively slow and it passed only five bills, however, the legislation got pace in the second, third, fourth, and fifth parliamentary years by accepting 32, 31, 29, and 37 bills, in the lower House, respectively. Following table describes the said detail:

Bill passed by 13th National Assembly			
Parliamentary years	Bill passed by Government	Bill passed by private members	Total
1 st	04	01	05
2 nd	29	03	32
3 rd	30	01	31
4 th	25	04	29
5 th	28	09	37
Total	116	18	134

Source: (FAFEN, 2013)

Out of the total bills passed, 56 government bills brought minute amendments to the already existing laws, whereas other bills passed were entirely new laws.

From the working of the previous assemblies it is difficult to find any similar precedence to the fact that the 13th National Assembly paid more respect to the bills presented by the private members. It introduced 189 private members bills, out of

which 135 were seeking amendments in already existing laws; eventually only 18 bills were passed by the Assembly (FAFEN, 2013). As far as the case of private member bills are concerned, there had been a lack of legislative trend in the previous six National Assemblies (from 1985 to 2007) as compared to the 13th National Assembly, so merely three private member bills had been passed by those Assemblies (UNDP, 2008).

Constitutional Amendments and Institutionalization of Political Power

As mentioned above, the 13th National Assembly incorporated historic Constitutional Amendments like the 18th, 19th, and 20th with comprehensive suggestions, which resulted in the restoration of the parliamentary structure and the constitution of 1973 in its original form by eliminating almost all the changes which had been brought in by the Zia and Musharraf's military regimes in the form of 8th and 17th Constitutional Amendments. It distributed powers to the provinces for vigorous liberty in various disciplines, and empowered the legislatures and secured a restructured independent Election Commission as well as provided a consultative mechanism for organizing caretaker governments (Paasch, & Dayo, 2018).

18th Constitutional Amendment

The 18th Constitutional Amendment (2010) enjoys a significant position in the constitutional history of Pakistan for it has become a symbol of federalism, democracy, civilian supremacy, institutionalism, and provincial autonomy. However, whether or not it proved healthier for the political system is another debate still (2022) being carried on in the media as well as other relevant quarters. A majority of mainstream political parties generally believe that the 18th amendment strengthened the federation of Pakistan by eradicating the impression that the state had been run by armed forces hence the said parties supported it. This Amendment curtailed the powers of the President office transferring them into the Prime Minister office and boosted provincial autonomy. The title of NWFP was changed to Khyber Pakhtunkhwa (KP). The name of General Zia-ul-Haq was also excluded from the manuscript of the constitution. Furthermore, the ban on aspirants for a third-term in the office of either the Prime Minister or the Chief Minister was waived off (Khan, Shah & Azhar, 2019). The 18th amendment brought optimistic consensus and harmony among all stakeholders of the federation giving a ray of hope for the firm establishment of democracy in Pakistan that might be measured as the major constitutional success towards the implementation of the true spirit of the constitution of Pakistan (Mehboob, 2018).

Federation-Provinces Relations

So far Pakistan has developed and enforced three constitutions i.e. of 1956, 1962, and 1973, which unanimously supported a federal structure in which most of the powers resided with the federal government. The eighteenth amendment tried to offer provincial autonomy and create equilibrium between the center-province relations (National Assembly Proceedings, 2012). The following points are good examples to understand its impact on the said relations:

1. The emergency in any province could not be imposed without taking into confidence the concerned Provincial Assembly.
2. Abolishment of the Concurrent List by shifting almost all the items (except two) to provinces.

3. Several things were lifted from the Federal List Part I and the Concurrent List and, were placed in Federal List Part II, which then became the shared responsibility of federal government and provinces in the Council of Common Interest (CCI).
4. Shares regarding the royalty on crude oil as well as development surcharge on natural gas were declared as the provincial subject.
5. Sales tax regarding services or facilities stayed decentralized by keeping within the authority of the provinces (Rana, 2020).

The 7th NFC Award

The 7th NFC Award was one of the major developments for the federation of Pakistan that significantly altered the formula of resource distribution between the federation and provinces. It is pertinent to mention that the 6th NFC Award provided for the resource distribution among provinces exclusively on the basis of population but this time a new resource distribution formula was devised which took into account some other parameters as well; that included inverse population density, social backwardness and revenue collection or generation. Some other issues like GDS, Hydroelectricity Profit, etc. were also resolved by that award. As compared to the 5th NFC Award of 1997, Presidential Distribution Order, Grants-in-Aid Order 2006 and Distribution of Revenues, the 7th NFC Award provided for the vertical distribution of resources which favored only the provinces. A decline in the share of the provinces has been observed since the approval of NFC Award 1991 and these shares were not evenly distributed among the provinces. The NFC Award 2009 bestowed more benefits to backward provinces like KP and Balochistan as compared to those enjoyed by Sindh and Punjab. Moreover, the 7th NFC Award cast a better and positive impact on social sector spending as compared to all the previous Awards (Sabir, 2010).

Empowerment of the Senate

Contrary to the constitutional setup prevalent in the past, the 18th Amendment immensely empowered the Senate of Pakistan and brought significant changes in its role and structure.

- The strength of members in the Senate has been increased from 100 to 104 by adding four more reserved seats for minorities (Passch & Dayo, 2018).
- It was provided that no ordinance could be announced, issued, or entertained while the session of both the Senate and National Assembly would be in progress.
- According to article 91 of the Constitution of Pakistan, the Federal cabinet will be collectively answerable before the National Assembly and Senate. Accordingly, it was enacted that the Parliamentary Committee authorized for the appointment of judges of the apex court would consist of members of the National Assembly and Senate on an equal basis.
- The Chief Election Commissioner would be appointed by the Parliamentary Committee comprising one-third of members from the Senate.
- Earlier, the reports regarding principles of policy (article 29), CCI (article 153), NFC (article 156), and the Auditor-General of Pakistan regarding the accounts of the federation (article 171), had been presented only in the National Assembly but now it was made obligatory to be presented in the Senate as well.

- It was enacted that if the President of Pakistan declared the emergency, it must be presented before both the Houses of Parliament for seeking their consent within 10 days after any such declaration. Moreover, the National Economic Council was also made answerable before both Houses of Parliament due to the inclusion of a new clause in Article 156 (Rana, 2020).

Appointment of Judiciary

It might be noticed that the parliament was given a role to appoint judges in superior courts for the first time under the 18th and 19th Constitutional Amendments. Earlier, the President was empowered to exercise this power solely. According to the 18th Amendment, a Judicial Commission consisting of seven members headed by the Chief Justice would itself nominate a candidate for a High Court or Supreme Court. A three-fourths majority of the Parliamentary Committee consisting of eight members would be required to confirm such nomination (Paasch, & Dayo, 2018).

Since the 18th amendment had directly affected the autonomy of the judiciary in various matters particularly curtailing its role in terms of appointment of Judges in superior Courts (Article 175) hence the superior Judiciary showed immense reservations about such provisions which contained its powers. Therefore those provisions were challenged through various petitions and were sent back by the judiciary to the Parliament with the direction that these might be reviewed. To avoid any conflict with the judiciary and maintain coordination among the institutions, National Assembly passed the 19th Constitutional Amendment on December 22, 2010. An important feature of this Amendment was to deal with the judicial appointment, its procedure, and the justice system of Pakistan. It restored the confidence of the judiciary by increasing its role and powers in the process of judicial appointments (Kanwal, 2017).

The 19th amendment which had been approved by the President on 1st January 2011 not only reformed the procedure of judicial appointments, it also eliminated the authority or power of the Chief Justice regarding selection as well as the appointments of judges. It assured that the Judicial Commission will send its recommendations about the nominee to the President of Pakistan. Another attribute of the 19th amendment was that the title of High Court of Islamabad was modified to Islamabad High Court. The Prime Minister was also included as a member of that Judicial Commission which was empowered to undertake the procedure of appointment of new judges. Moreover, it was provided that the meetings of Judicial Commission will be held in camera whose record will be preserved and maintained. In order to incorporate the abovementioned scheme into the Constitution, the 19th amendment modified articles 81, 175A, 182, 213, and 246 (Khan, Shah, & Azhar, 2019).

Appointment of Caretaker Government

The 20th amendment was approved unanimously by the Parliament and the Government and the Opposition agreed to adopt a consensus-based mechanism for the appointment of the Caretaker governments at the center as well as in the provinces. The main purpose of the installation of these Caretaker setups was to ensure free and fair elections in such a way that nobody could raise a single finger about their credibility. Five years term for members of the Election Commission of Pakistan (ECP) was also fixed through this Amendment (PILDAT, 2013).

Women Empowerment

Since female representation was enhanced in the 13th National Assembly, it was hoped that their greater number would increase their influence in the decision-making process (Jabeen & Muhammad, 2021). The women comprised 22.5 percent of the total membership in the 13th National Assembly and their participation in the Assembly sessions and proceedings was one of the important indicators of judging their dedication and seriousness towards their responsibilities (FAFEN, 2013). An Act regarding Women Protection from harassment at their place of work was passed in 2010 that intended to safeguard the working women by providing a mechanism to secure their workplace environment. In order to achieve that end, section 509 of the Pakistan Penal Code was amended through the Criminal Law (Amendment) Act 2010. The Amendment defined the offence of 'harassment' which might be done at the workplace or anywhere and provided for the criminal trial of the person guilty of harassment. The Act further provided that a culprit of Harassment would be fined for a sum of five thousand rupees along with the imprisonment up to three years for the crime of sexual harassment (PCSW, 2010).

Furthermore, the Criminal Law (Amendment Act) 2011 passed by the parliament included prevention of immoral and unethical practices against women. Such acts included depriving women of inheritance, marriages under coercion, offering women in compensation to resolve clashes (*wanni* or *swara*) and convincing them for marriage to the Holly Quran. These acts were made punishable crimes in order to provide shelter to the women from Anti-Women Practices. Moving more rationally towards the same direction, the Criminal Law (Second Amendment) Act 2011 was launched to keep control over Acid throwing incidents; a punishment for life imprisonment as well as a fine up to one million rupee was enacted to achieve that end (Bilal, 2016). The purpose of this Act was to control over the acid import, its preparation, trade, and storage as well as to ensure that it could not be used in any atrocious activity. It also emphasized that the State should give legal safety to those who become victims of acid throwing and burn crimes. In a broader sense, Pakistan showed its commitment to the worldwide community, international institutions, treaties as well as conventions by making legislation on heinous crimes related to women and minorities. Other bills were passed which intended to uproot sectarianism, provide protection to minors, eliminate the unjust practices based on gender discrimination, and form commissions to upgrade the social status of women in society. So, the pro-women legislation improved the image of the 13th National Assembly (Jabeen & Muhammad, 2021). Accordingly, an independent and autonomous National Commission was constituted by the parliament by passing a bill in 2012. It was assigned the duty of taking needful steps about the status of women and to promote their social, economic and political activities within the society and to guarantee legal rights for them (Bilal, 2016).

As mentioned earlier, the female parliamentarians constituted 22.5 percent of total members of the 13th National Assembly. In numerous disciplines, they performed their parliamentary role extremely well as compared to that performed by the male members. Dr. Fehmida Mirza, the first woman in the Muslim world who became Speaker of the 13th National Assembly of Pakistan had been a key figure in its successful functioning (Allauddin, 2020). Under her guidance, a parliamentary committee for women was created to highlight women's rights which, in turn, recommended the female parliamentarians to join civil society organizations and work with academia and private sector partners so that they mutually could bring into attention of the legislature such matters which instantly required some legislation and also which were related to public interest. Some of such matters, for example, included gender inequality, domestic brutality, and women's family rights.

Furthermore, many important pro-women bills presented in the parliament intending to protect women against domestic violence, harassment and anti-women practices were transformed into valid laws. The 15 bills (out of 18 private bills) related to the field of education, services on behalf of the government, eradication of quotas (discretionary) about public housing schemes, election related matters, and issues of domestic violence regarding women (The Domestic Violence (Prevention and Protection) Bill, 2009), prohibition of acid throwing and outlawing the anti-women practices were moved by women lawmakers and passed by the 13th National Assembly (Paasch, & Dayo, 2018).

The Committee System and Growing Role of Opposition

In parliamentary democracies, the Committees are termed as eyes, ears, hands and even brain of the Parliament. Similarly, another saying about the importance of the Committee is that “Congress in session is Congress in Exhibition, while Congress in its Committee Room is Congress at work” (National Assembly of Pakistan, 2022). The legislative committee system has been measured as the silver bullet in the internal functions of a parliament. Every committee consists of individuals proficient in their fields hence through committee system legislative work is distributed to specialized persons. A powerful committee system tends to boost the overall performance of a parliament. In modern-day democracies, the committee system has a key role, which is a well-organized way to maintain oversight and execute changes in the functioning of the agencies that are in the control of the executive. The committees enable the parliament to make sound choices in an investigative way. They keep eyes on the actions of the executive departments and civil servants. The Committee System in Pakistan today seems stronger and more successful than ever before, especially after the National Assembly executed the Rules of Procedure and Conduct of Business in 1992 which were further modified and improved in 2007 (Tasleem & Zaidi, 2013).

Under rule 200 of the Procedures of the Assembly, no committee of the National Assembly can be comprised of more than 20 members. They will be chosen by the Assembly with the consultation of the Leader of the House. According to the details of above mentioned rule, a Minister, a Minister of state or an Advisor cannot serve as a head of a parliamentary committee in both houses of parliament. The composition of the committee has significantly been modified in 2008, and an increased number of members from opposition parties were appointed as chairpersons of the committees. Additionally, an equal representation was given to both the government and the opposition parties in all the committees. For instance, while constituting the Committee on National Security, the majority of the members had been taken from nine opposition parties and one as an independent member (from FATA) but only three were taken from the ruling PPP (Paasch, & Dayo, 2018). This new mechanism of electing heads of committees from all the parliamentary parties assured both the MNAs from ruling PPP and its coalition partners as well as the Opposition parties to enjoy the chairperson-ship of various parliamentary committees in proportion to their representation in the National Assembly (PILDAT, 2013).

Moreover, it is also pertinent to mention here that, for the first time in the history of Pakistan the Leader of the Opposition was elected as head of the Public Accounts Committee (PAC) which made the said Committee stronger and put healthy effects on its efficiency dissimilar to its past character. It was decided in the Charter of Democracy (COD) of 2006 that the Leaders of the Opposition of the concerned assembly would be appointed as the chairmen of PAC in both the national

and provincial assemblies. As a result of the above-mentioned modifications, all major parliamentary parties of the National Assembly during its tenure (2008-13) succeeded to enjoy the chairs of 32 Standing Committees. There had also been seven members from the PML(N), eight members of the PML-Q, and nine members belonged to the ruling PPP who served as chairpersons of these standing committees. Keeping in view of the performance of the newly incorporated committee system of the 13th National Assembly, it may be concluded that the said system performed significantly well and in a more speedy way as compared to the 12th National Assembly (2002-2007) which had 43 Standing Committees and 35 members that were elected as chairpersons but they all belonged to the ruling PML-Q as well as their coalition partners and left the little vacuum for opposition to perform as committee chairpersons (Paasch, & Dayo, 2018).

Conclusion

The 13th National Assembly (2008-2013) immediately succeeded a military regime, its tenure was a crucial phase for the growth of parliamentary democracy in Pakistan in terms of the achievements of the Parliament. During the said tenure, many new laws were enacted which were related to different disciplines of life. As mentioned above, the size of legislation suggested by the treasury benches as well as from the opposition parties was significantly improved during the time period of the 13th National Assembly. The gender-sensitive study of the said Assembly also portrays a satisfying picture as compared to those of the past in which male-dominated performances could be observed from various parliamentary proceedings. The female parliamentarians have done extremely well in several disciplines of legislation and left the male members much behind in terms of parliamentary performance and excellence. A number of significant pro-women bills were presented in the parliament which intended to stop domestic violence and harassment against women. Dr. Fehmida Mirza performed a key role with respect to the successful functioning of the parliament. The growing role of opposition in the committee system improved the legislative performance of the Assembly and enhanced collaboration, developed trust and confidence between government and opposition parties. The instant study found that three Constitutional Amendments i.e. 18th, 19th, and 20th had been incorporated into the Constitution of Pakistan which practically restored the original parliamentary spirit of the 1973 constitution, made the judiciary independent, introduced the 7th NFC Award, assured the provincial autonomy, and established an independent Election Commission of Pakistan (ECP). The parliament abolished the quasi-presidential structure of the 1973 constitution as modified by General Pervaiz Musharraf. Particularly, the 18th amendment provided the mechanism for much demanded provincial autonomy and also transferred the powers of the President to the Prime Minister. North West Frontier Province (NWFP) had also been renamed through the said Amendment. The name of General Zia-ul-Haq has been excluded too from the manuscript of the constitution. Furthermore, the ban on the aspirant for a third-term of either the CM Office or PM Office was waived off. Hence it can be safely summarized that the overall performance of the 13th national Assembly remained extra-ordinary well and it succeeded to perform its original role i.e. of transforming the general will into public policy.

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