

Dictum of Majority and Performance of Legislature: A Comparative Study of PPP (1988-90) and PML-N (1997-99)

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Abstract

Pakistan inherited Westminster system of government from its colonial rulers. At the time of inception, the foremost challenge for the nascent state was to draft a workable constitution that may fulfil the aspirations of the center as well as the federating units. This challenging task was assigned to the legislature of the state which it failed to fulfil. It was dissolved by the head of the state, followed by a martial law and a subsequent constitution by the dictator. Most of the regions of the state had reservations against that constitution which was replaced by the Constitution of 1973 by an elected government. This constitution was a unanimous document but multiple amendments introduced by the governments of Zulfikar Ali Bhutto and Zia-ul-Haq changed its essence. When Zia's dictatorial regime came to an end, the common man and intelligentsia were hopeful for a positive change in the form of democratic government. It was expected that a party based democratic government will be able to amend the constitution and make it according to the aspirations of heterogeneous political stakeholders and groups in the state. The task that was assigned to the elected governments could not be achieved during the decade of democracy.

Different reasons are ascribed by various analysts for the failure of democratic developments in Pakistan among which the change of governments without completing their tenures is the most prominent. There can be traced other reasons as well like lack of commitment on part of politicians, their non-serious attitude towards democracy and institutional development, and absence of democratic traditions and attitude in general. The dictum of majority inside the parliament was another factor that over shadowed working of the governments during the whole decade (1988-99). The present study is planned to focus on this particular issue while comparing the two governments i.e, that of Benazir's first tenure (1988-90) and Nawaz Sharif's second term as prime minister (1997-99). These eras are selected for a comparison: Benazir's first term suffered lack of majority support inside the parliament because of which it was unable to achieve any milestone in legislation; on the contrary, second

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tenure of Nawaz Sharif was marked with absolute majority. There was hardly any considerable number of opposition members inside the National Assembly which allowed the ruling party to amend the constitution without any considerable debate on the 'Floor of the House'. The present study aims at analyzing the dictum of numbers and its significance in the working of legislature in Pakistan.

Introduction

Pakistan is a juvenile democratic state as from the very beginning the democracy could not take roots in the region. After the inception of Pakistan, first Constituent Assembly was formed by the members elected during the elections of 1946. The Constituent Assembly was entrusted the responsibility of framing the constitution for the newly created country i.e. Pakistan. It was only able to complete its work in 1956, after long ten years of its creation.¹ Main reason for this delay was unrepresentative character of the assembly, consistent changes of the prime ministers of the state and above all none of the parties in the assembly had majority support which hindered the basic work of constitution making. The Constituent Assembly was dissolved in 1956 and later in 1958 martial law was imposed by General Ayub Khan. Although the dictator provided a constitution to the state in 1962 but that constitution lacked a representative character. It failed to meet the aspirations of multiple provinces of the country.² The constitution got suspended after the dismissal of the government of General Ayub Khan.

First general elections were held in Pakistan after 26 years of its creation and a constitution was approved by the representatives of the

¹ Details are available in M. Rafique Afzal, *Political Parties in Pakistan: 1947-1958*, Vol. 1 (Islamabad: National Institute of Historical and Cultural Research, 1998); Mohammad Waseem, *Politics and the State in Pakistan* (Islamabad: National Institute of Historical and Cultural Research, 1994), pp.123-26; Syed Jaffar Ahmad, *Federalism in Pakistan: A Constitutional Study* (Karachi: Pakistan Study Centre, 1990), pp.54-57; Zarina Salamat, *Pakistan 1947-1958: An Historical Review* (Islamabad: National Institute of Historical and Cultural Research, 1992), pp.58-62; Kausar Parveen, *The Politics of Pakistan: Role of the Opposition, 1947-58* (Karachi: Oxford University Press, 2013), pp.221-65.

² M. Rafique Afzal, *Political Parties in Pakistan: 1958-1969*, Vol.II (Islamabad: National Institute of Historical and Cultural Research, 1998), pp.44-60; Altaf Gauhar, *Ayub Khan: Pakistan's First Military Ruler* (Lahore: Sang-e-Meel Publication, 1993), pp.191-93; Ian Talbot, *Pakistan: A Modern History* (London: Hurst & Company, 2005), pp.156-58, Jaffar Ahmad, *op.cit.*, pp.58-61.

people in 1973. After the dismissal of Zulfikar Ali Bhutto as Prime Minister of Pakistan, the country faced another martial law in 1977 which lasted till 1985. In 1985, martial law was partially lifted and controlled democracy under the non-party elections was adopted.³ This assembly was dismissed in 1988 which was followed by the death of General Zia-ul-Haq, the then President.

After General Zia-ul-Haq's death a new era of democracy began which lasted for almost eleven years and ended with the dismissal of the government of Nawaz Sharif in 1999. During these eleven years four governments were dismissed before they could complete their tenure of five years according to the constitution of Pakistan. Among these four, two of the tenures are the focus of the present study i.e. the first government of Benazir Bhutto (1988-1990) and the second tenure of Nawaz Sharif (1997-1999) as prime ministers of Pakistan. The reason for the selection of these periods is that the former lacked clear majority in the parliament and the second enjoyed more than two-third majority. The present study is planned to analyze the dictum of majority inside the parliament of Pakistan for which these two eras are the best variables to focus.

Elections 1988 and party position in the parliament

It is important to have a look at the election results before focusing on the legislation done during the two regimes under study. The elections of 1988 were one of the most uncertain elections in the history of Pakistan because there were doubts if the elections will be held or not. A major section of society was expecting another martial law. Furthermore, it was not clear that the elections will be held on party basis or otherwise. It was only after the decision of Supreme Court of Pakistan to conduct elections on party basis⁴ which allowed the political parties to run their election campaign with zeal. Secondly, the government was amending rules and regulations regarding the elections. All such things made the political

³ Mohammad Waseem, *op.cit.*, pp.397-401; Ian Talbot, *op.cit.*, pp.260-62.

⁴ *The Pakistan Election Compendium*, Vol.2 (Lahore: Church World Service, 2012), p.35. Petition against non-party elections was filed in the Supreme Court on 28 August 1988. The Supreme Court accepted political parties' right to contest elections in a verdict given in response to the petition filed by Benazir Bhutto. It allowed the political parties to contest elections under the symbols allotted by the Election Commission of Pakistan on 2 October 1988. After the decision of the Supreme Court, it was formally approved, in a cabinet meeting, to hold elections on party basis. *Dawn*, 3 October 1988. Also see *The News*, 3 October 1988 and *Jang*, 3 October 1988.

parties prepare for the elections half-heartedly⁵ which had a clear effect on the voter turnout and that of the performance of political parties in the elections. The elections of 1988 brought success for the PPP but without a clear majority. It is important to take a glance of the results of 1988 elections before proceeding further:

1988 Elections and Party Position in National Assembly

Party Name	General Seats
Pakistan Peoples Party	93
Islami Jamhoori Ittehad	54
Jamiat Ulema-e-Islam (F)	07
Pakistan Awami Ittehad	03
Awami National Party	02
Balochistan National Alliance	02
National Peoples Party (Khar)	01
Pakistan Democratic Party	01
Jamiat Ulema-e-Islam (Darkhasti)	01
Independents	40

Source: Report on the General Elections 1988, Vol. 1 (Islamabad: Elections Commission of Pakistan), pp.199-200. Also see The Pakistan Election Compendium, Vol.2 (Karachi: Church World Service, 2012), p.45.

Benazir's first tenure and performance of legislature

With this kind of split mandate none of the political parties was in a position to form government without making alliance with other political parties. The party position was also a clear hint about the problems that had to be faced by the upcoming government as it had to make many compromises to run the state which remained clearly evident throughout the first term of Benazir Bhutto as Prime Minister. A coalition government had to keep the agenda of its partners inside as well as

⁵ Among many other changes in the rules of the elections, presentation of National Identity Card (NIC) was made compulsory for the issuance of ballot paper which was criticized by most of the political parties, particularly Pakistan Peoples Party. There were many reasons for criticizing this arrangement; most important being a general attitude of not getting NIC. A large majority of the population did not believe in having NIC due to unawareness of its importance or because of their conservative set of beliefs. See *Mashriq*, Lahore, 13 October 1988. The Peoples Party opposed the condition to provide NIC for the issuance of the ballot paper mainly because it believed that majority of Sindhi rural population, in particular, and that of Pakistan, in general, do not get their NIC. It alleged that it was an effort to prevent its voters to cast vote.

outside the assembly. The government also had to provide many incentives to the MNAs who returned successful as independent candidates because they could always change or shift loyalties towards the opposition which could further disturb the balance of power inside the assembly.

In view of the above situation the government of Benazir Bhutto could not even pass basic legislations and it was problematic even to pass the annual budgets. The very first problem that the government had to face was accepting Ghulam Ishaq Khan as its presidential candidate. Secondly, it had to keep the previous Foreign Minister, Sahibzada Yaqoob Khan, as the foreign minister in her tenure. Benazir also pledged not to interfere in the matters relating to the defence of the state. All these preconditions were accepted by her government only because it did not enjoy support of the 2/3 majority on the floor of the parliament.⁶ In view of all such matters, the government could not focus on its primary responsibility i.e. legislation. The government had to run the state relying on ordinances. This is evident in the list of the ordinances that were issued during the first term of Mohtarma Benazir as Prime Minister. The list of ordinances is as follows:

Ordinances 1988

S.No.	Short Title
1	Banking Companies (Amendment) Ordinance, 1988.
2	Central Excises and Salt (Amendment) Ordinance, 1988.
3	Code of Criminal Procedure (Amendment) Ordinance, 1988.
4	Civil Servants (Amendment) Ordinance, 1988.
5	Delimitation of Constituencies (Amendment) Ordinance, 1988.
6	Delimitation of Constituencies (2 nd Amendment) Ordinance, 1988.
7	Delimitation of Constituencies (3 rd Amendment) Ordinance, 1988.
8	Enforcement of Shariah Ordinance, 1988
9	Enforcement of Shariah (Revised) Ordinance, 1988
10	Finance Ordinance, 1988

⁶ Ghafoor Ahmad, *Waz̄ir-i A'z̄m Benazir Bhutto: Nāmzadgi Sei Bartarfi Tak* (Lahore: Al-Qamar Enterprises, 1995), pp.169-70. Also see Saeed Shafqat, *Civil-Military Relations in Pakistan: from Zulfikar Ali Bhutto to Benazir Bhutto* (Colorado: Westview Press, 1997), p.227, and *Kessing's Record of World Events*, 35:12, p.37150.

11	Federal Employees Benevolent Fund and Group Insurance (Amendment) Ordinance, 1988.
12	Finance (Revised) Ordinance, 1988
13	International Islamic University (Amendment) Ordinance, 1988.
14	Islamabad Real Estate and Motor Vehicle Dealers (Regulation of Business) (Amendment) Ordinance, 1988.
15	Income Tax (Amendment) Ordinance, 1988.
16	National Registration (Amendment) Ordinance, 1988.
17	National Tariff Commission Ordinance, 1988
18	Pakistan Arms (amendment) Ordinance, 1988
19	Political Parties (Amendment) Ordinance, 1988.
20	President's Pension (Amendment), Ordinance, 1988
21	Representation of the People (Amendment) Ordinance, 1988.
22	Registration of Printing Press and Publication Ordinance, 1988
23	Registration of Printing Press and Publication (2 nd Amendment) Ordinance, 1988.
24	Registration of Printing Press and Publication (3 rd Amendment) Ordinance, 1988
25	Suppression of Terrorist Activities (Special Courts) (Amendment) Ordinance, 1988.
26	Special Courts for Speedy Trial (Amendment) Ordinance, 1988.
27	Suppression of Terrorist Activities (Special Courts) (2 nd Amendment) Ordinance, 1988
28	Transfer of Managed Establishments (Amendment) Ordinance, 1988.
29	Tax Laws (Repeal) Ordinance, 1988
30	Transfer of Managed Establishments (2 nd Amendment) Ordinance, 1988.

While analyzing the above mentioned ordinances it is clearly evident that most of the matters that needed government's attention and constitutional amendments were taken care with the support of ordinances. These ordinances not only cover most of the administrative, financial and legal matters but also terrorist activities and the political matters. This proves the fact that the political government was not in a position to legislate as per requirement because of lack of support inside the parliament.

Short titles of Ordinances issued during 1989-90

S.No.	Short Title
1	Banking Companies (Amendment) Ordinance, 1989.
2	Banks (Nationalization) (Amendment) Ordinance, 1989.
3	Banking Companies (2 nd Amendment) Ordinance, 1989.
4	Criminal Law (Amendment) Ordinance, 1989.
5	Delimitation of Constituencies (Amendment) Ordinance, 1989.
6	Martial Law Regulation No.57 (Amendment) Ordinance, 1989.
7	Registration of Printing Press and Publications Ordinance, 1989
8	Registration of Printing Press and Publications Ordinance, 1989
9	Representation of the People (Amendment) Ordinance, 1989.
10	Registration of Printing Press and Publication Ordinance, 1989
11	Representation of the People (2 nd Amendment) Ordinance, 1989.
12	Transfer of Managed Establishments (Amendment) Ordinance, 1989.
13	Suppression of Terrorist Activities (Special Courts) (Amendment) Ordinance, 1989.
14	Banks (Nationalization) (Amendment) Ordinance, 1990.
15	Census (Amendment) Ordinance, 1990.
16	Criminal Law (Amendment) Ordinance, 1990.
17	Criminal Law (2 nd Amendment) Ordinance, 1990.
18	Criminal Law (3 rd Amendment) Ordinance, 1989.
19	Criminal Law (4 th Amendment) Ordinance, 1989.
20	Criminal Law (5 th Amendment) Ordinance, 1989.
21	Pakistan Telecommunication Corporation Ordinance, 1990.
22	Parliament and Provincial Assemblies (Disqualification for membership) (Amendment) Ordinance, 1990
23	Political Parties (Amendment Ordinance, 1990
24	Prime Minister's Salary, Allowances and Privileges (Amendment) Ordinance, 1990.
25	Registration of Printing Press and Publications Ordinance, 1990.
26	Registration of Printing Press and Publications Ordinance, 1990.
27	Representation of the People (Amendment) Ordinance, 1990.
28	Representation of the People (2 nd Amendment) Ordinance, 1989
29	Special Courts for Speedy Trial Ordinance, 1990.
30	Suppression of Terrorist Activities (Special Courts) (Amendment) Ordinance, 1990.
31	Suppression of Terrorist Activities (Special Courts) (2 nd Amendment) Ordinance, 1990.

The above mentioned list also shows that most of the issues faced by the state were handled through ordinances as the government could not legislate through the National Assembly due to adverse circumstances, particularly lack of the majority support inside the parliament. It was not only legislation that was difficult for the PPP government during its first tenure (1988-1990) but other financial and administrative matters were also difficult to handle. Most prominent of them was the approval of the budget from the assembly. Another issue that proved to be really problematic was the no-confidence move against the then prime minister. Both the issues are very briefly discussed below.

No-confidence motion

Opposition used the lack of majority support to keep the government of Benazir Bhutto under pressure. The threat of no-confidence was used by the opposition during the second half of the year 1989. The opposition coalition consisted of Islami Jamhoori Ittehad (IJI), Jamiat-ul Ulema-e Pakikstan, Pakistan Jamhoori Party, and Awami National Party.⁷

Benazir faced this threat throughout her tenure because of the thin majority that she enjoyed in the National Assembly. Opposition parties used this threat quite well. Initially, a no-confidence move against the prime minister was announced without mentioning its date.⁸ First, this was used by General Secretary of JMP, Pir Fazal in February 1989.⁹ In April, Sheikh Rasheed, an IJI MNA, announced that IJI had support of 73 members in the National Assembly and was enjoying support of JUI, Nasrullah Khan, Abida Hussain and members of FATA. He announced that the opposition needed the support of Muhajir Qaumi Movement (MQM) to launch a successful no-confidence motion against Benazir.¹⁰ The motion narrowly failed with the lack of just 12 votes. Benazir received 148 votes in December 1988 and the opposition had the support of only 55 members, but, in November 1989, opposition enjoyed 107 members' support which was alarming for the PPP.¹¹

⁷ Ghafoor Ahmad, *Waz̄ir-i Ā'zam Benazir*, 295. Also see an Interview of Abdul Ghafoor with Rauf Tahir, *Zindagi*, 11-7 May 1990, p.6; Awan, *Tīn Muntakhib Wuzra'ei Ā'zam kī Bartarfi*, p.272, *Jang*, 10 August 1989, *Pakistan Times*, 13 January 1990 and *Imroze*, 13 January 1990.

⁸ 'Mutahida Hizb-e Ikthlaf ky Faisly', *Zindagi*, 1-7 December 1989, p.7. Also see Ihteshamul Haq, 'Blow Hot. Blow Cold', *The Herald*, January 1990, p.67.

⁹ *Dawn*, 13 February 1989 and *Hurriyat*, Karachi, 13 February 1989.

¹⁰ *Hurriyat*, 2 April 1989.

¹¹ 'Mutahida Hizb-i Ikthlāf kā Ijlās', *Zindagi*, 1-7 December 1989, p.7.

Many members of the opposition criticized the idea of no-confidence move and asked to let democracy work. They were of the view that the no-confidence move, if successful, could not bring a strong government.¹² IJI had planned for a second no-confidence motion against the premier in 1990, in the September-October National Assembly session, but before this could happen the assembly was dissolved by the president. While explaining the causes of the dissolution of the National Assembly, Ghulam Ishaq Khan said that instability of the government and its inability to legislate were two major reasons for the dissolution of the national and provisional assemblies.

Prime minister's re-election after March 1990

Opposition's demand for the reelection of the prime minister was another issue that created problems for the government of Benazir. The opposition parties were of the view that the Article 91 (2-A) of the constitution envisages that the president would nominate the prime minister. This clause was valid until 20 March 1990. Opposition took the stance that according to this clause after 20 March 1990 nominated premier had no right to administer the state. It was demanded that the prime minister should get a vote of confidence to prove her majority. This demand was only made because the opposition parties were aware of the fact that Benazir will not be able to get a vote of confidence from the 2/3 of the National Assembly members. For the same reason Benazir tried her best to avoid any such situation¹³ because she had faced a tough situation while handling the no-confidence move in 1989. The whole debate was the result of the lack of majority support for the then prime minister but it hampered the parliament from its basic responsibility i.e. legislation for the state.

Problems in getting budget approval

Budget and approval of the budget is generally considered as one of the important indicators of the success of a democratic government. The PPP government faced serious challenges to get the budget approved from the parliament. The opposition coalition tried to prevent the federal

¹² *Mashriq*, 17 October 1989.

¹³ Details are available in Ghafoor Ahmad, *op.cit.*, p.449. Also see Mukhtar Hassan, 'Kabīna kei Andar Wazīron kā Dngal', *Zindagi*, 2-8 February 1990, p.19; *The Muslim*, 18 March 1990; *Nawa-i-Waqt*, 20 December 1989 and 21 March 1990. Also see *Jang*, 23 March 1990 and Masood Sahir, 'Wazīr-i Ā'zam Sāhiba Qaumi Assembly sei Pardah Keisa', *Zindagi*, 6-12 April 1990, pp.6-7.

government from passing the budget to prove government failure, but it could only pressurize the government by creating some delay in the process.¹⁴ In the budget session, Ghulam Mustafa Jatoi, leader of the opposition in the parliament, instead of being well prepared regarding the budget tried to pressurize the government by discussing its other mistakes, particularly handling of the Sindh situation. Many other opposition members adopted almost the same attitude. It was planned that the opposition will demand division on every cut motion but being not confident of its strength this plan was not implemented and the government got the approval for the most controversial Peoples Works Programme (PWP) which was facing severe criticism from different sections of society including the parliamentarians.¹⁵

Just as significant, Benazir could not even create a cohesive domestic policy for Pakistan. Her government's alliance with the MQM proved as an obstacle in the parliamentary actions. Furthermore, this alliance enfeebled her credibility within the PPP, especially among the Sindhi nationalists who had been her strong support. Another shortcoming was the failure of the then administration to follow her agenda, announced during the electoral campaign, like to improve women's health care and other social issues. In a nutshell Benazir's first tenure was without a single piece of legislation except two annual budgets.¹⁶

The unrest and instability inside the parliament and the failure of government to legislate was mainly due to the above mentioned reason, that is the ruling party had no clear majority inside the house which not only hindered the process of legislation but also made smooth running of the state's affairs difficult.

Nawaz Sharif's second tenure

The second tenure of Nawaz Sharif as Prime Minister of Pakistan from 1997-99 was comparatively unique in the history of Pakistan with reference to the authority of a democratic government as the government enjoyed more than two third majority. During his first term Nawaz Sharif led a coalition of almost 15 political parties while during the second term

¹⁴ 'Jatoi's New Job', *The Nation*, 5 June 1989 and Iftikhar Ali, 'Islami Jamhoori Ittehad aur ANP mein Ikhtilāfāt', *Jang*, 25 November 1989.

¹⁵ Ihteshamul Haque, 'Budget Blunder', *The Herald*, July 1990, p.41. Also see 'Jatoi's New Job', *op.cit.*, and Iftikhar Ali, *op.cit.*

¹⁶ James Wynbrandt, *A Brief History of Pakistan*, Infobase Publishing, 2009, p.230.

he got the public mandate as the leader of his own political party named as Pakistan Muslim League (Nawaz Group) commonly known as PML (N). The quantum of success of Nawaz Sharif's political party was equally surprising for him and his political opponents. Brief description of the elections results of 1996-97 is given below:

Election 1997 and Party Position in National Assembly

Party Name	General Seats
Pakistan Muslim League (N)	135
Pakistan Peoples Party	18
Haq Parast Group (HPG)	12
Awami National Party	09
Balochistan National Party	03
Jamiat Ulema-e-Islam (F)	02
Jamhoori Wattan Party	02
Independents	21

Source: 1997 General Elections Report, Vol. 1 (Islamabad: Election Commission of Pakistan), p.190. Also see The Pakistan Election Compendium, Vol. 2 (Karachi: Church World Service, 2012), p.631.

Such overwhelming majority made Nawaz Sharif a very powerful prime minister. He had the authority to make decisions according to his personal choice. Even amendments were not a big deal for him. In this regard the very first development was the Thirteenth Constitutional Amendment which was passed without following the required procedures and repeated readings. This was done to curtail the powers of the then President, Farooq Ahmad Khan Laghari, who was a PPP member and had become a powerful president under the Eighth Constitutional Amendment. Through this amendment the president and governors were debarred to dissolve national and provincial assemblies and powers of the president to nominate chiefs of the armed forces and governors of the provinces were also taken away. Such a comprehensive amendment in the constitution was passed within a very brief time without following formal procedures.

The Fourteenth Constitutional Amendment was also passed in a hurry. The Fourteenth Amendment handled the floor-crossing of the members of the assembly but instead of handling the issue of floor-crossing positively this amendment had a reverse action of silencing all the dissenting voices inside the house. Although apparently it was a positive decision but, since the issue was not debated and its negative side could not be highlighted on the floor of the house, the amendment

proved a source to make the assembly a rubber stamp for the decisions of the party leadership.

With reference to the Fifteenth Amendment it is believed that it could practically make the constitution just a piece of paper as the government could even give directives against the decision of any court of justice in the name of Islamic law. This amendment was opposed as this could make the then prime minister an elected dictator. Sixteenth Constitutional Amendment extended the quota system for services for further twenty years. The time period had lapsed in 1993 was extended up till 2013 although there was a strong resistance against defining quota in services.

By having two-third majority, in a brief period of time, Nawaz Sharif got approved apparently four constitutional amendments that changed the whole power structure of the state and the outlook of constitution. It also provided confidence to the government to start resistance against the judiciary which gave a verdict against the Fourteenth Constitutional Amendment.

Conclusion

The facts mentioned above highlight the point that in a parliamentary form of government majority plays a critical role, particularly in juvenile democracies like Pakistan. The first tenure under study shows that the government did not enjoy the required majority which made it a slave to the head of the state and the government could only be run through presidential ordinances. Contrary to that, by having a majority, the ruling party changed the outlook of the constitution and the executive authorities even without following any formal procedure. Although the judiciary and opposition tried its level best to prevent such changes in the constitution but because of its majority in the parliament, the ruling party took every decision it considered correct.