

The Role of 18th Amendment in Democracy of Pakistan:

By

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Abstract:

After the 2008 elections, an elected democratic government gave Pakistan another chance to consolidate its fragile democracy. The years (2008-2018) have seen significant constitutional amendments with far-reaching effects. A total of eight constitutional amendments have been made in 2008 and 2018, including the eighteenth, nineteenth, twentieth, twenty-first, twentieth, third, twenty-fourth and twenty-fifth. All these constitutional amendments played a role in restoring the parliamentary structure of the 1973 constitution. The 8th and 17th Amendments to the Constitution were introduced during the military rule, most of which were unanimously repealed by Parliament. The most significant and historic achievements of the amendment between 2008 and 2018 were the empowerment of the provinces, the empowerment of the legislative branch, the creation of an independent election commission, the establishment of caretaker governments, and the military to combat terrorism. The establishment of courts was to allow delimitation inclusion of constituencies and Federally Administered Tribal Areas (FATA) in Khyber Pakhtunkhwa before the 2018 general elections. The constitutional amendments in constitution, 1973 of Pakistan, specially, the 18th constitutional amendment has played big role for democratization during 2008-2018 in Pakistan which has strengthened democracy and paved the way for the supremacy of the parliament at same time. Democracy is a system of government that supports the broad participation of the people in government and also promotes the views of citizens to smooth society. Democracy is the government of the people. The system of democracy is the one of the best democracies in the world. The people of Pakistan are not unawareness about the system of democracy in Pakistan. In the constitutional history of Pakistan, there have been many civilian and military dictators who have refused to work under the constitution and run their own governments because parliament is the basic institution of democracy. Parliamentary democracy in Pakistan has collapsed four times. The political aspirations of the military generals the various constitutional models and the Third

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Amendment to the 1973 Constitution (8th and 17th) distorted parliamentary democracy by denying parliamentary autonomy and the rights of the people. After the transfer of power from the military to civilian rule in 2008, it strengthened parliamentary democracy, provincial autonomy, and the judiciary, and the role of democracy in ensuring the independence of the Election Commission and a solid state. After coming to power under the PPP, the government restored the parliamentary spirit of the Constitution through the 18th Amendment. After days of deliberation and consensus by a committee representing all parties of Pakistan in Parliament, the 18th Amendment has cleared the Constitution by removing undemocratic additions and deletions.

Keywords: Democracy, Democracy of Pakistan, 18th Amendment.

Introduction:

Considering the Decade of Democracy in Pakistan (2008-2018), this 10-year period is unique in the history of the country's legislature. Unlike in the past, the 13th and 14th National Assemblies completed their five-year terms during this period, and power was transferred from one civilian elected government to another in June 2013 and August 2018, respectively. Historical developments in this area need to be examined closely. (**Abdullah Deo 2018 P3-11**) In order to analyze the relevance, achievements and challenges facing Parliament during this period, it will be necessary to study and consider in depth the political, economic and social context of parliamentary continuity in Pakistan. The Constitution of the Islamic Republic of Pakistan of 1973 was almost unanimously adopted by the elected members of the National Assembly of Pakistan on 12 April 1973 and came into force on 14 August 1973. (**Muhammad, Muqadas, Khattak, 2017**) After the enactment of the Constitution, the process of amendment started seven amendments were brought in Constitution till 1977. Surprisingly the Military and civil bureaucracy even after a breakup of Pakistan in December 1971, did not let the democratic process on and Martial Law was proclaimed by the then Chief of Army Staff, General Muhammad Zia-ul-Haq on 5th July, 1977. (IOSR Journal of Humanities and Social Science) example the role of 18th Amendment in the way of democracy in Pakistan and also define the rule of the parliament of Pakistan in his article ‘ ‘ Restoration of parliamentary democracy in Pakistan under the 18th Amendment ‘ ‘ Pakistan's constitutional history bears witness to the fact that many civilian military dictators who refused to act under the constitution and assumed real power hindered the evolution of democratic parliamentary culture. State parliamentary democracy declined four times in Pakistan. The political operations of military generals, mismanagement and institutional development, various constitutional models (from parliamentary to presidential and quasi-presidential) and then amendments to the 1973 constitution (8th and 17th)

distorted parliamentary democracy, weakened parliamentary autonomy and denied the rights of the peoples and strengthened military regimes. (Muhammad Rizwan , Muhammad Gulbaz Arshad , Muhammad Waqar, 2014 , p 1-5) After the change of military rule from the military in 2008, it was necessary to restore the democratic system by returning the 1973 parliamentary constitution. In addition, Alstom aims to strengthen parliamentary democracy under the historic Charter of Democracy, make the provinces autonomous, ensure the independence of the judiciary and the Election Commission, and ensure the solid socio-economic development of the state.

Background:

The constitutional amendment introduced during 1979 to January, 1985 on the will of martial law administration, General Zia-ul-Haq changed the bases and spirit of 1973 constitution. Which changed the state form a democratic to dictatorial government , although the general election were conducted form 1985 on words , but elected government could not complete the tenure of five years , while the biggest Political parties such as the Benazir Bhutto-led Pakistan People's Party and the Pakistan Muslim League led by Mian Muhammad Nawaz Sharif were against each other's, there was no understanding and common stance for strong democratic Government and constitution at norms , rather the military and civil establishment role was not in favor of democracy and did not let the process of holding of fair election , and completion of the tenure of the government, a good number of so called political parties and leaderships were founded to counter the real political parties and leaderships. As a matter of the fact , the political Parties on national and provincial level could not came closer on minimum points for democratic amendments in the Constitution of 1973, however , When General Pervez Musharraf toppled down the government of Main Nawaz Sharif who even had 2/3 majority in the parliament now both major political parties and popular leaderships like Benazir Bhutto and Mian Nawaz Sharif, Mahmood Khan Achakzai and other were under the strict surveillance of General Musharraf, most of the leaderships were either put in jail or compelled to leave the country with exile life in other countries, in such sever circumstances political parties and pro-democratic leadership's excluding Muslim League (Quid-i-Azam) led by Choudary Shujat Hussan and Matahida Quami Movement (MQM) led by Altaf Hussain . (**Mehmish Akram, 2017**) had numbers of meeting in London , finally two Ex-Prime Minsters reached on conclusion to sign a historical charter on the name of charter of democracy in May 2006 with the commitments to pave the way for strengthening the supremacy of parliament and to bring amendments in the constitution to shun the intervention of military and their allies and the determination by transferring power to provinces as promised

in the historical Lahore resolution on 23 March, 1940 in presence of Quaid-e-Azam Muhammad Ali Jinnah, Founder of the Country, contains the text of the Charter of Democracy that the two elected Prime Ministers of Pakistan Under the dictatorship, the people faced unprecedented difficulties. The charter includes stunting the progress of the nation and destroying the country with the flourishing of democracy, while undermining the mandate and the sovereign will of the people. **(B.Mehboob, 2019)** The charter called for an alternative direction for the country's survival, including economically sustainable, all progressive, politically democratic and pluralistic, federal cooperation. Published in E-Paper Nawaiwaqt) ideologically tolerant internationality respectable, and rationally peaceful, Deciding once and for all that only the people and anyone else has the sovereign right to govern through elected representatives as envisioned by the Father of the Nation Quaid-e-Azam Muhammad Ali Jinnah, has been adopted to amend the Charter of Democracy, a constitution introducing free and fair elections to determine civil-military relations and a code of conduct. **(Inayatullah, Sarah Inayatullah, Sohail).**

Introduction of Democracy:

Introduction to Democracy In simple words, the definition of democracy is that people have the right to influence the important decisions that affect their lives, rather than one person making all the decisions of the country himself.

Be determined It is not possible to follow the views of every individual, although in a democracy the opinion of every individual is valued, but this process is based on the opinion of the majority.

The word demo is derived from the ancient Greek language in which demo means people while kurtik means to rule. Therefore democracy belongs to the government of the people. In a direct democracy, every individual's opinion is taken into account in decisions that affect the country. However, its implementation is a difficult task. **(H. Karamat 2012)**

Democracy in Pakistan:

The Radio speech of Quaid-Azam to the people of America, February 1948, "A democratic and Islamic constitution for Pakistan" The Constituent Assembly of Pakistan has yet to formulate the Constitution of Pakistan. I don't know what the letter will be, but I'm sure it will be a democratic constitution that includes the basic tenets of Islam. These principles can be applied today just as they were thirteen hundred years ago. The lesson of democracy has been taught to us by Islam and its spirit. **(Dr. Mamoon 2018)**

The Eighteenth Amendment:

The Eighteenth Amendment to the Constitution of Pakistan was passed by the National Assembly of Pakistan on April 8, 2010, removing the President's authority to unilaterally dissolve the Parliament of Pakistan. Here are the reasons for the 18th Amendment. **(Haroon, 2010)**

- 1) Concerns of provinces the first reason the 18th Amendment was to address the problems of small provinces. Natural resources should be given to small provinces because it extracts natural resources from small provinces like Sui gas which extracts from Sui in Baluchistan but Baluchistan itself is deprived of gas.
- 2) Toppling of democratic government. Repeat in the second major martial law. Martial law was started by General Ayub and then by Zia ul Haq and Yaha Khan and the fourth martial law were imposed by Musharraf. **(H. Rashid, 2010)**
- 3) Abrogation of constitution. The third major reason was that whenever a martial law was imposed, he would first abolish the constitution in a few days or make a new constitution or amend it as he wished. This was a very big reason 18th Amendment.
- 4) Strengthen of democracy. The fourth major reason: Strengthening of democracy. If we go into the historical background, it would start with the Charter of Democracy.

On May 15, 2006, the Charter of Democracy was signed between Nawaz Sharif and Benazir Bhutto in London. Just as Nawaz Sharif's government was overthrown, Benazir's and Zulfikar Bhutto's governments were overthrown and executed. So they feel the need to talk on such a logical framework to make such a promise. Create a charter that will strengthen democracy and strengthen democratic government main point of charter democracy. **(H. Rashid, 2010)**

The Charter of Democracy had no legal status because it was signed in London. Legal status would be something that was approved by the National Assembly and signed by the President.

Main point of charter of democracy

- 1) Abolishing LFO, The first is to abolish the legal framework that Musharraf introduced in 2002, under which he would amend the law at will.
- 2) Abolishing of 17th amendment, the second point is to repeal the 17th Amendment. History of the 17th Amendment the 13th Amendment begins with the introduction of the Zia-ul-Haq Martial Law in which the President has the power to dismiss the Prime Minister and his National

Assembly. Nawaz Sharif repealed 13 amendments and introduced 14 amendments in which the President cannot dismiss the Prime Minister. Musharraf then introduced the 17th Amendment that the President could dismiss the Prime Minister. When the National Assembly could challenge him in the Supreme Court, the Charter of Democracy also did not promise to repeal the 17th Amendment and have a federal system in which the President The national assembly cannot be dissolved, nor can the prime minister. **(A. James Paul 2014)**

- 3) Abolishing concurrent list, abolishing concurrent list in Pakistan
- 4) Local bodies It will strengthening local bodies and give full powers to the provinces.
- 5) New NFC Awards Finance Awards are distributed between the provinces and endowments. Taxes and population etc. come to the provinces.
- 6) Replacing NAB We will change the NAB because it was created by an army but it did not happen. Today the same political party is in the custody of the NAB.
- 7) Respecting once another mandate electoral mandate.
- 8) The end of the army in politics.
- 9) Accountability to the Army, ISI, MI and other security agencies.
- 10) No political party will join the military government.

The 18th Amendment was passed by the National Assembly on April 8, 2010 and by the Senate on April 15, 2010, and signed by the President on April 20, 2010. It was given legal status on April 20. **(F. Subhan , 2018)**

- 1) Province, concerns.
- 2) Change name of province.
- 3) Role of senate was enhanced senate province.
- 4) Local government enhanced 14OA.
- 5) Council of common interest.
- 6) National finance commission
- 7) Concurrent list was abolished
- 8) Article related to democratic government.
 - 1) 17th amendment was abolished.
 - 2) Restriction on becoming PM for third time was also abolished.

- 3) Care taker setup.
- 4) Musharraf's legal frame work.
- 5) Fundamental rights were added (fair trail) .
- 6) Constitutional safeguards
- 7) High treason.
- 8) Judicial commission.

Importance of 18th amendment on the continuation of democracy Provinces concerned were addressed, High treason for those abrogate constitution. Continuation of democracy, 3rd transition and tow democratic government, (18th Amendment and Provincial Autonomy: Political Challenges Parties January 2018.) Published in Baluchistan study center in 2018 completed their tenure It is a different matter that the two democratic governments have completed their term under the 18th Amendment. (Arshad, **J. Rizvi**)

Conclusion:

Pakistan and the Democratic Journey In today's South Asia, The success of democracy in India and the United States and its failure in neighboring Pakistan. has been one of the relatively significant issues. However, studies on India's democratic politics and the military-dominated repressive state in Pakistan have paid less attention to this issue and further clarified why Asia is the last place to share a common British heritage. In post-independence states, i.e. in South Asia, the politics of two different models flourished. The total tenure of the four-armed military is more than half of its total. This reflects the fact that the military presence in Pakistan is deeply rooted in the democratic system. In this era, four constitutions have been enacted in the country which addresses the instability of society in terms of rule of law .In May 2002, a joint declaration of the Charter of Democracy was issued both leaders, Bhutto and Nawaz Sharif, agreed that it was imperative to reduce the role of the military in political affairs. 18th Amendment is the Strength of democracy. If we go into the historical background, it would start with the Charter of Democracy. On May 15, 2006, The Charter of Democracy was signed between Nawaz Sharif and Benazir Bhutto in London. Just as Nawaz Sharif's government was overthrown, Benazir's and Zulfikar Bhutto's governments were overthrown and executed. So they feel the need to talk on such a logical framework to make such a promise. Create a charter that will strengthen democracy and strengthen democratic government. The Charter of Democracy had no legal status because it was signed in London. Legal status would be something that was approved by the National Assembly and signed by the President main point of charter of

Importance of 18th amendment on the continuation of democracy. Provinces concerned were addressed, High treason for those abrogate constitution. Continuation of democracy, 3rd transition and tow democratic government, completed their tenure it is a different matter that the two democratic governments have completed their term under the 18th Amendment. Then there is the case of NAB today. It is their fault because they did not change the NAB as they had said. and good governance. It is true that the 18th Amendment made democracy very strong but our political party is very weak. One party is fighting for power. Their aim is not to restore democracy but to gain power. The current example is that of Bilawal Bhutto and Maryam Nawaz. Nowadays, a PDM movement has not been successful so far because there is no consensus among them. Their aim is not democracy but to overthrow the government of Prime Minister Imran Khan. Now it's time to move on.

References:

- Akram Mehmish "Understanding the concept of Democracy in Pakistan " P1-3 Published on November 26, 2017. Published in "https://moderndiplomacy.eu/2017/11/26/understanding-the-concept-democracy –in-Pakistan /"
- Arshad, Javed Rizvi " Democracy of Pakistan Root Causes of weak demarcation system in Pakistan" published in Sir Syed University of Engineering and Technology.
- Dayo Abdullah " Decade of Democracy of Pakistan" published on December 2018, P 3-9.
- Haroon " Key Eighteenth Amendment Proposals " in April 2, 2010 published in BBCUrdu.com, Islamabad P1.
- Hussain Karamat Nazi "the constitution Islamic republic of Pakistan " Published on 28th February 2012. P142.
- Inayatullah, Sarah Inayatullah and Sohail " The futures democracy of Pakistan " on (December 1997 published in (The_futures_of_democracy_in_Pakistan_A_liberal_perspective).
- James Anjam paul "The constitution of Pakistan " October 2014 publisher: Pakistan Minorities Teachers " Association P 1-2
- Mamoon Dawood " A Brief History of Pakistan's Democratic Journey (2008-2018)" on November 2018 published in <https://www.researchgate.net/publication/329153586>.
- Mehboob Bilal Ahmed "two faces of Democracy " on 12 April 2019. (Ahmed Bilal April 12, 2019 p 1) published in Dawn newspaper.

Subhan Fazli ‘’ 18th Amendment Provincial Autonomy: Challenges for Political parties ‘’ on January 2018 published in Baluchistan study center university of Baluchistan Quetta .

Waqas M, Muquddas , Khattak ‘’ Democracy in Pakistan: problems and prospects in making informed choices ‘’ on January 2017 p1 published in international journal of Social Sciences Management