

Parliament not-Parliaments: Legislature of Pakistan in the Hatching (1947-69)

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Abstract

The evolution of parliamentary system in an ideological state, with two major units; miles apart on the globe, having multiple social and regional identities, and claiming being a federation has been a unique experience. After getting independence from the British, Pakistan decided to opt for a parliamentary form of government. The process was based on single house i.e. legislative assembly which was entrusted with dual responsibilities of framing the constitution and making legislation to run the state system. Initially, its membership was based on indirect elections through the elected representative on provincial basis in the elections of 1946 conducted by the British government. This system of indirect elections for national legislature was kept in practice till 1970 general elections after twenty three years of independence of Pakistan. First and second decades experienced multiple changes of electoral process and that of the practices of the floor of the constituent assembly. Apparently it is claimed that there had been major changes in the parliament of Pakistan with reference to the system of elections, and membership but certain practices seem consistent till date. The present study is an effort to analyse the early phase of the parliament which provided the basis for the parliamentary system of Pakistan.

Key Words: Parliament, Legislature, Democracy, Elections, Pakistan.

Introduction

Federations are generally formed by legislative agreement of multiple independent unions or subdivisions of the larger areas; difficult to be effectively administered. A parliament is basic needs for such federations to run the state systems positively. A parliament is a consultative body for passage of legislation for a federation. Multiple words like Parliament, Assembly and/or legislature are generally used for this institution. The structures and system of election/selection generally vary from country to country but mainly they are bicameral or

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unicameral performing the duties of making legislation for the state and keeping a check on the state's institutions for their basic responsibilities.

A bicameral parliament usually has a separate method for selection of the Upper and Lower houses two houses of the parliament. Powers of both the houses are also defined according to the requirements of the federations for example the House of Commons in Britain is comparatively more democratic while the upper house in Britain is not elected.

In parliamentary government, Prime Minister, being leader of the majority party or of coalition, serves as the chief Executive of the state. The prime minister is generally appointed by the official head of state. The official head may be the king or queen in a monarchy or a president of a republic. The prime minister selects members of parliament to form his cabinet, and generally the control of important spheres of government rests with the Cabinet. Members of a parliament are elected for a maximum term, but election may occur any time short of the full time or the completion of the term of office.

After its inception, Pakistan adopted the Westminster system of government. In the earlier phase of its history till the passage of the 1973 Constitution, it had a unicameral legislature. The government of India Act of 1935 with necessary amendments was its first constitutional document which was replaced by the constitution of 1956, drafted by its Constituent Assembly. Study of functioning of Constituent/Legislative Assembly can help us to understand the problems and shortfalls that our Constituent Assembly suffered to further improve the performance of this institution. The present paper is an effort of document and analyse the working and performance to first twenty-three years of this institution as the basis of our parliamentary system of government.

Growth of Legislatures in the British India

Parliamentary democracy was introduced by the British government in the Indian sub-Continent in a gradual process over years. The Act of 1853 may be considered the beginning of the constitutional history of India as a distinct landmark. For the first time a Legislative Council, as distinguished from the governor general's executive council, was established. (Belavadi, 1988; see also Keith, 1968) The next was the Indian Council Act of 1861. (Keith, 1922) Under this Act, Legislatures were constituted in Madras and Bombay in 1861, in Bengal in 1862, in North-West Province in 1866, in the Punjab in 1897, and in eastern Bengal and Assam in 1905 (Belavadi, 1988). The next milestone in this reference was the Indian Councils Act of 1892, (Keith, 1922) which liberalized the powers of the Legislative Councils, and thus marked a further step in the development of these bodies. The principle of nomination was still adhered-to, but the nominated members in both the Central and Provincial Legislatures were nominated on the recommendation of various bodies, i.e. Chambers of Commerce, Provincial

Legislature (for the Central Legislature), local bodies land-holders, University etc. which was a major development in the Subcontinent (Belavadi, 1988). Following the Indian Councils Act of 1892 the British government introduced constitutional reforms through Act of 1909 (Keith, 1922) generally known as Minto Morley Reforms of 1909, (Belavadi, 1988; see also Ahmad, 1960) Act of 1919. (Belavadi, 1988; see also Ahmad, 1960; also see Bukhari, 1971). Through the Act of 1919, the Legislature's scope and jurisdiction was widened. It was also announced that new reforms will be introduced after ten years, as a consequence of which Indians will get an opportunity to establish an accountable government (Malik, 1990; see also Keith, 1922). The government could bring next act in 1935 which was a comprehensive Constitution as compared to the previous Acts introduced by the British government which envisaged a federal type of government (Keith, 1922; see also Hamid, 1967; Ahmad, 1960; Bukhari, 1971).

Constitutional developments since 1853 shows that the Legislature in the pre-partition era had very limited authority of legislation. It never had the right to legislate in the spheres of defense, foreign policy. Legislators were elected through restricted franchise and indirect elections. Most of the times nominated members outnumbered the elected members. In 1919, the direct electoral system was introduced, but people remained divided in groups, because of their separate religious and ethnic identities. After 1935, religious affiliations became stronger than ever before, furthermore it seemed easier for politicians to unite the people on the issues of religion, rather than any other issue. In these circumstances, the development of political parties along the lines of British political parties was almost impossible. Restrictions imposed on the people to qualify for the status of voter were too strict, and resulted in shrinking the voters' lists. This situation kept people away from parliamentary politics, and they could not pass through a training process. Alongwith these restrictions, the literacy rate and socio-economic differences in different groups of society proved as other hindrances in the growth of political institutions. These circumstances encouraged personality-centric political parties, rather than issue oriented ones which has been the focus of the post partition politics of the region particularly in Pakistan.

Functioning of the Parliament of Pakistan

Functioning of the parliament of Pakistan had never been a smooth sailing. The political system faced consistent modifications with the change of government or the ruling party. Furthermore, imposition of martial law did not allow the democratic system to evolve which could fulfill the aspirations of common people.

Before the inception of Pakistan, a parliamentary form of government had been introduced in this particular region by the British. But this system remained active for a very short span of time as the parliamentary institutions

were introduced in NWFP in 1935, Sindh became a separate province in 1935 and parliamentary system was introduced there in the same year. Before 1935 Sindh was part of Bombay, and had no particular role to play in state politics. Almost the same situation was faced by the people of Eastern Bengal. Legislature had existed in the Punjab since 1897, but practically it was not playing any serious role in the politics of the province (Ahmad, 1960; see also Khan, 2015).

Under Section 8 of the Indian Independence Act of 1947, the Government of India Act of 1935 was adopted with necessary amendments as the working constitution of Pakistan. A Constituent Assembly was set up under the Independence Act. The members of West Punjab and East Bengal constituted the assembly, which was supposed to frame the future constitution of Pakistan. The Constituent Assembly of Pakistan held its inaugural session on August 10, 1947 with dual responsibilities; to draft the constitution of Pakistan and to act as a legislative body till the new constitution was enforced (Callard, 1957; see also Talbot, 2015).

The Federal Assembly of Pakistan, 1947-1954

Under the Indian Independence Act, the Constituent Assembly of the newly created country was entrusted the responsibility to prepare a constitution. It also had to serve as Parliament or Federal Legislative Assembly, until the new constitution could be practically implemented. The Assembly was given the right to amend the Indian Independence Act or the Government of India Act, 1935. At its creation, the first Constituent Assembly consisted of sixty-nine members, and increased to seventy-nine under the (Increase and Redistribution of Seats) Act, 1949. The states of Bahawalpur, Khairpur and Baluchistan and the Tribal areas were given additional seats on their accession to Pakistan (Choudhary, 1969). The two major parties in the House were the Muslim League and the Congress Party. Between them they accounted for the bulk of the membership. The middle class in East Pakistan and the feudal classes in the West wing had a near monopoly of representation. Change of party loyalties was evident in the first Assembly, as in 1947 Muslim League had 49 members, which reached 60 in 1953, and the number of Congress members went down from 16 to 11. The most prominent group in the Assembly was consisted of lawyers, which was 31, while the landlords numbered 27 (Ahmad, 1970).

Law making was the primary function of the legislature. It had control over the executive, and without approval of the Federal Assembly, the cabinet could neither raise revenues nor stay in office. Its legislative powers were defined in three lists incorporated in the seventh schedule of the Government of India Act, 1935. A federal constitution was promulgated which vested more powers to the center than to the provinces. The powers were extended from time to time by the interpretation and amendment of the Government of India Act. Due to the

problems which occurred by the partition of India, and that of the Punjab in particular, power remained with the central legislature, because it was managing almost all the important matters of the state, like taxation and the rehabilitation of refugees (Ahmad, 1970).

The Assembly had to meet once in a year, but it was not allowed to take a break for more than 12 months. Only 13 sessions could be held during the period of 1947-1954. The session of the Assembly was called twice a year. Budget sessions were of longer duration. 13 sessions were held over 244 working days. (Ahmad, 1960) During the whole period only 16 days were for the private bills and motions. The average working hours of the legislature was almost 2.50 hour per-day (Ahmad, 1970).

Constitutional Development

There existed no hard and fast rules regarding the procedure of Assembly. In the beginning rules of the Indian legislature were adopted. In March, 1948 it defined its rules, but they remained under constant change (Ahmad, 1960). The only achievement of the Assembly was passing of a resolution known as the “Objectives Resolution” on March 12, 1949. Ever since, this resolution has served as the preamble to every constitution of Pakistan. This resolution defined that it was state’s responsibility to enable its inhabitants to follow the teachings of Islam. Principles of democracy, freedom, equality, tolerance and social justice would be fully observed (Shah, 1996). Although the Ulema accepted this resolution but they were not fully satisfied. Allama Shabir Ahmad Usmani commented that the document was full of contradictions as it referred to the sovereignty of Allah, the people and the Parliament (Talbot, 1999). The resolution was opposed by non-Muslim members of the Assembly (Shah, 1996).

Legislation

The legislative Assembly was entrusted the responsibility to enact fresh laws. Furthermore, it could amend and modify the old statutes according to the requirement of a newly created country. The assembly had to legislate in almost every field of national importance among which 130 fall into the categories like finances, currency, industry, banking, commerce, insurance, and communication; 42 bills were adopted that dealt with the matters of internal and external security; 17 bills were about problems with reference to the refugee rehabilitation, administration of evacuee property and citizenship rights and 24 belong to the local problems of the then federal capital of Pakistan, Karachi (Ahmad, 1970). Following the patterns of parliamentary form of government the first Constituent Assembly appointed multiple committees and sub-committees to seek guidance with reference to its primary task i.e. framing of a Constitution (Choudhary,

1969). But it does not seem that the Assembly worked seriously as the sessions were too brief to discuss all complex matters comprehensively. Generally the bills passed on the floor of the house could not get much attention of the parliamentarians and bills used to be amended according to the will of leaders of the majority party. The legislation enacted by the Assembly was not enforced properly. Although the legislature promulgated many laws but most of them could never be enforced.

Day to Day Business of the Assembly

Rules of procedures for the business of day to day responsibilities were defined. Among them Private members' business allowed the members to introduce bills, resolutions or any other motion that they consider necessary. In the first constituent assembly 111 Private Members' bills were notified amongst which 28 were presented in the legislature, while only 3 bills were approved. Mostly the movers did not know how to get them passed (Ahmad, 1970). In seven years 56 Adjournment Motions were notified, amongst which 31 were considered against the law, and 3 were not granted leave by the House. Only 4 were discussed. The rejection of a large number of motions illustrated the difficulties in their admission. (Ahmad, 1970)

Another important feature of the day to day functions of the assembly was 'Question Hour'. The right to ask questions was relatively easy to exercise. The question hour was a regular feature of the Assembly proceedings. A large number of starred and un-starred questions were asked in each session, reaching a record figure of 1832 in the autumn session of 1953. Usually members raised questions on the issues other than those which had been decided for that particular day. A lot of information could be elicited during the question hour, but most of the time was wasted because there was no guidance or warning to the members about the type or nature of the questions to be asked. Such questions were raised which could not be answered on the floor of the House, because of their sensitive nature (Ahmad, 1970). Opposition also did not use this opportunity to keep a check on the government policies.

It was a unicameral legislative body, which was not represented equally by the provinces. Members of many parties were represented in it. Multiple tasks were conferred on it, because of which the assembly could not concentrate on its primary responsibility, the promulgation of a Constitution. The nature of the duties of a Speaker demands that he should act impartially so as to enjoy the confidence of the whole house. Tamizuddin Khan, who was a Leaguer, was the speaker of the National Assembly even during the lifetime of Jinnah. Although he presided over the sessions with vigour but he did not work impartially. At certain times his rulings were too liberal in allowing the members of the Treasury Benches to ask questions from the ministers that should never have been raised,

while his behaviour was ungenerous towards Opposition and he generally disallowed Adjournment Motions moved by the opposition members. (Ahmad, 1960; see also Khan, 2015) The final draft of the Constitution was ready, and the Assembly was dissolved by the then Governor General, Ghulam Mohammad with the claim that the assembly had lost confidence of common people (Callard, 1957; see also Choudhary, 1969). This was the fate of the first Constituent Assembly, a practice which has been repeated many times with other Assemblies, and nobody can say when this practice will come to an end. In the absence of general elections, no fresh blood was infused into the legislature. The representatives of East Pakistan in the Constituent Assembly of 1954 did not reflect the views and opinion of the majority of its people (Ahmad, 1970).

Furthermore, the role of the Speaker was not ideal. The nature of the duties of a Speaker demands that he should act impartially so as to enjoy the confidence of the whole house. Tamizuddin Khan, who was a Leaguer, was the speaker of the National Assembly even during the lifetime of Jinnah. Although he presided over the sessions with vigour but he did not work impartially. At certain times his rulings were too liberal in allowing the members of the Treasury Benches to ask questions from the ministers that should never have been raised, while his behaviour was ungenerous towards Opposition and he generally disallowed Adjournment Motions moved by the opposition members (Ahmad, 1960; see also Khan, 2015). Having rendered itself unrepresentative of public opinion, it proved an easy prey to the forces that had no respect for the representative principle.

Second Constituent Assembly, 1955-1957

The proclamation of the governor general was announced on May 28, according to which the Second Constituent Assembly came into being on June 21, 1955. This was also elected through the indirect method of election (Zakaria, 1972). It consisted of 80 members. The Constituent Convention was officially named Federal Legislature by the governor general. The composition was based on the principle of parity of representation between East and West Pakistan. The composition changed as 40 seats for East Pakistan, nine (9) for non-Muslims, Punjab 21, 1 for non-Muslims, NWFP (recently named as Khyber Pakhtunkhwa) 4, Sindh 5, Tribal Areas 3, Bahawalpur 2, Baluchistan, Baluchistan States Union, Frontier States, Khairpur state and Karachi, 1 each (Ahmad, 1970).

The Assembly would have been more truly representative if direct elections had been held, but the urgency for an early Constitution made indirect elections inevitable. Yet in a sense the second Constituent Assembly was more representative in character than its predecessor, inasmuch as the provincial legislatures, which elected it, had been elected on the basis of adult franchise and the elections were held after independence (Choudhary, 1969). Through the

elections change in the membership of legislature occurred. From East Pakistan 32, and from West Pakistan 30 new members succeeded in the process of election. It also increased educational standard of the members of National Assembly as 52 University graduates and 27 post-graduates won in the election, but most of them had a political background (Ahmad, 1960).

In the first Constituent Assembly, there were two women members. There was a general expectation that more women will become part of legislature in the elections but not even a single woman could become part of second constituent assembly of Pakistan. Furthermore, some of the prominent members of the Movement for Pakistan, such as Khawaja Nazim-ud-Din, Sardar Nishter, Qayyum Khan and Maulana Akram Khan, were not there in the new Assembly (Ahmad, 1960). The members of Federal Assembly for East Pakistan were elected by its Provincial Assembly. In West Pakistan 31 members were elected by the members of the Provincial Assembly of the Punjab, NWFP, Sindh and Khairpur State Assemblies, Four (4) members were elected by the Council of Heads of Princely States, one (1) member from Karachi was elected by the municipal committee of Karachi, three members were elected by the Council of Tribes, one was elected by *Shahi Jirga* and by the un-official members of Quetta Municipality (Ahmad, 1960).

Estate owners and landlords were a prominent group in the Legislative Assembly. They were always active for the protection of their rights, and that is the reason the plight of the tenants could not be changed in Pakistani society. In the East Pakistan the monopoly of representation of its illiterate and rural people passed into the hands of the middle class as the feudal structure did not exist there. A handful of industrialists and merchants returned to the Assembly, but they did not symbolize the leadership of their class, as it had been politically inactive and relied more on its resources to influence government policies from outside the Assembly. Economic interests of the members were, however, not reflected in their political alignments. For instance, landlords were common in both the Republicans and the Muslim League parties (Ahmad, 1970). Professionally, they were not very different of the members of the first Constituent Assembly.

Table 01: Number of Members of Constituent Assembly According to Their Occupations

	Total	West Pakistan	East Pakistan
Landlords	28	28	Nil
Lawyers	23	3	20
Retired official	14	5	9
Industry & Commerce	7	4	3
Miscellaneous	8	-	8
Total	80	40	40

Source: Ahmad, *Government and Politics in Pakistan*, 106.

Three major parties won most of the seats in the second constituent Assembly but none of them had a clear majority that was necessary to form a government. The opposition of a communal minority had been replaced by a parliamentary opposition. Till adoption of the constitution on February 29, 1956, the Assembly functioned as a legislature. The National Assembly into which it converted itself came into being on March 23. Muslim League had 33 seats, United Front 16, and Awami League 13. None of the other political parties got representation worth mentioning (Ahmad, 1970).

Constitutional Development

The second Constituent Assembly somehow succeeded in performing its primary duty of framing the constitution of Pakistan. As a constitution making body, this Assembly worked for 83 days. Its first meeting was held on July 5, 1955 at Murree. During this session instead of paying attention to its original work, members remained busy in horse-trading and floor crossing. The second session was held in August. At the promulgation of the Constitution the Constituent Assembly session was called from March 2, to March 15, 1955 (Zakaria, 1972).

The Constitution consisted of 245 clauses, which were passed in 31 working days. The Act of unification of West Pakistan into one unit was discussed for 30 days in the House. This was commented on by 42 members and 275 amendments were suggested. These figures show the participation and spirit of participation of members in the Legislature (Ahmad, 1960). Through active participation, the members of the House started exerting their opinion over the government's view point. One prominent example of this attitude is deletion of the right of dissolution of Provincial Assembly by the governors (Zakaria, 1972). After passing of the Constitution, it remained in session as the Legislative

Assembly from March 2 to March 15, 1956. After March 25 (passing the Constitution), it converted to an interim legislature (Ahmad, 1960; see also Ahmad, 1970).

Legislation

Among many challenges, a major task for the assembly was to revalidate the statutes, which had become null and void as a result of legal disputes. The task was not easy, but the government was successful in revalidating the statutes and the country was finally saved from legal crisis and confusion. This Assembly was conferred with all the privileges which were enjoyed by the previous Assembly regarding the promulgation of the Constitution. It also had the power to decide the quantum of membership of different states and tribal areas (Choudhary, 1969). During 83 days of its existence, the Assembly not only passed the Constitution, but it passed some important laws including; Establishment of the West Pakistan Act, The validation of Laws Act, The representation of Tribal Areas and States Act, The Constituent Assembly (Proceeding and Privileges) Act.

Day to Day Business

In the second session of National/Constituent Assembly, a Committee was appointed to promulgate Rules of Procedure for the Legislature. The committee presented its report on December 9, 1955, which was approved after some amendments. According to these rules, presence of one-thirds members was considered the quorum without which proceedings of the Assembly could not be held (Zakaria, 1972).

The Government and Opposition had better relationship in this Assembly as compared to the previous one. From July 7, 1955 to March 22, 1956, 26 points of privilege were raised. Some of them were discussed at length in the forum. Sometimes harsh comments were exchanged by the Government and the Opposition (Ahmad, 1960).

Abdul Wahab Khan of ML was elected as Speaker of the Assembly during the second session of the assembly. The work of the Speaker was difficult as compared to the previous one, as none of the parties enjoyed an absolute majority in the House, and different political parties were busy in political bargaining. In such a scenario the role of Speaker become more important but the speaker did not behave impartially. He kept on attending party meetings till he was expelled from the party (Ahmad, 1970). Practically speaking, second Constituent Assembly was not much different to the first one.

National Assembly, 1956-58

According to Article 223 of the 1956 Constitution, the Second Constituent Assembly converted to the National Assembly of Pakistan, which performed its duties as legislature till October, 1958. It was a unicameral legislature consisting of 60 members (Zakaria, 1972). In this Assembly the representation of political parties remained under constant change. None of the parties had a definite majority to form government.

It was the prerogative of the President to call the Assembly session or postpone it. According to article 51 of the Constitution, a break of more than 6 months between the two sessions was not allowed (Zakaria, 1972). From 1956-1958, 10 sessions of Assembly were held which consisted of 94 working days (Ahmad, 1960). Working days of the Legislature shows that the government did not take too much interest in legislative work. Looking into the legislation of this Assembly, it is evident that the Legislature passed too many bills within a brief time without extensive debates on the bills passed.

Legislation

In the provincial election of 1954, the champions of regional autonomy got a decisive victory in East Pakistan. They created an abiding impact on the future Constitution of Pakistan. The Constitution prepared by them provided convincing evidence of the decentralization that had affect over the entire field of government and administration. The provincial list was enlarged at the expense of federal and concurrent list. At the same time, it added to the authority of the legislature as the appointment of prime minister was supposed to be done by the Assembly. The Assembly was the judge of whether the laws conformed to the religious injunctions or not. It also formed an organic part of the Electoral College for electing the president, and had full authority to impeach and remove him from office. The National Assembly became an ultimate source for appointing and dismissing governments. It was a pivot of the political system around which the constitutional machinery was intended to revolve. The future form of government or Constitution was also made the prerogative of the Assembly to decide, (Munir, 1980) which could frame any Constitution for the country it liked. Thus Pakistan could make any kind of Constitution, democratic, autocratic, oligarchic or religious.

The National Assembly followed the plan prepared by the Cabinet for legislation. Generally, it concentrated on industry, economy, taxation, banking and insurance. Internal and international affairs were discussed a bit less than before. Social issues were generally ignored. The National Assembly consisted of three major parties and these parties remained busy making a coalition to establish their government. The prime minister's portfolio shifted to different

coalitions, from Muslim League and United Front to Awami League and Republican Party, and then to Muslim League and the Republican Party. The shift of ruling coalitions prevented any consistent policies from being pursued, and it remained a prey to instability. Sessions were held for 94 days, of which only five days were dedicated to unofficial matters. Most of the enacted laws were not implemented, and remained on the statute book.

The National Assembly was entrusted the responsibility to promulgate laws of procedure for itself. On March 27, 1956 the President announced the laws of procedure for the National Assembly as guiding principle till it can complete task of devising laws of procedure. A committee was also formed for the enactment of the rules of procedure which was presided over by the Speaker, but it could not complete its work till the imposition of Martial Law.

Day to Day Business

The National Assembly produced an exceptionally large crop of Adjournment Motions; most of which were concerned with administrative and constitutional lapses, and other matters of minor importance. A large number of motions, undoubtedly, need not have been moved at all, but a few important ones were rejected on flimsy grounds (Ahmad, 1970).

In the Assembly, a limited number of questions were raised and the question hour was not used properly. Opposition did not make proper use of this facility as it provides a chance to criticize and to keep a check on government policies. Issues like the exchange rates of currency, and provincial quota in employment were generally discussed. Government's casual attitude was obvious as proper information was never provided by the relevant Minister to the members of the Assembly.

During two years of its span, only five days were allocated for non-official business, giving rise to complaints by its members. Only twelve bills were moved during this period, for which sixty seven notices were given by the members and only one was passed by the Assembly in its last session in September, 1958 (Ahmad, 1970). There were many reasons for this limited activity regarding private bills. The procedure to present a Private Bill was difficult, as members were supposed to notify at least one month prior to moving it in the House. Most of the members did not pursue their cases, because of their party constraints or personal benefits (Munir, 1980).

The Speaker is a final authority in the legislature. He is usually expected to be impartial in the House; safeguarding the rights of every member in the Assembly. But this actually did not happen. The policy of Speaker, Abdul Wali Khan, had always been pro-government. It is the duty of the Speaker to ensure the sanctity of the House and make it possible for the Assembly to work according to the rules of procedure and maintain discipline. But his pro-

government attitude stopped the Opposition from playing its role in national decisions. Many questions and adjournment motions were not given the due importance in the House because the Speaker did not allow them. A No Confidence Motion was also moved but was not successful (Ahmad, 1970).

Regional conflicts, unusual delay in the framing of the Constitution, decline of the Muslim League, absence of elections, lack of leadership and above all, the absence of commitment to the democratic process and the failure of the politicians to observe the acknowledged principles of conduct, were the factors which caused a shift of authority. These factors contributed to the shift of the levers of the power from the civilians to the army for next ten years (Yusuf, 1980). The then Martial Law administrator, General Ayub Khan introduced an altogether different system of restricted democracy which remained enforced during his tenure. In 1958 Martial Law was imposed on the country, and after 4 years of oppression, the people of Pakistan were provided with a so-called controlled democracy. The assembly of 1962 was elected under the law of the "Controlled Local Government Act".

National Assembly, 1962-1965

It was elected in April, 1962 as a unicameral legislature consisting of 156 members, 3 seats each in East and West Pakistan were reserved for women, and 150 were divided equally between the two wings (Belokernitsky & Msokalenko, 2013; see also Haq, 1962). Indirect elections were held through 80,000 Basic Democrats. Women were elected by the Provincial Assemblies of both the provinces. The elections were based on non-party basis, and except for seven seats, it was a difficult contest. The percentage of votes secured by the successful candidates was a little less than 50% (Ahmad, 1970). The average age of the members was slightly below 46 years. Comparatively younger men were returned from West Pakistan, the average age was 41.6 years in case of West Pakistan, and 49 in the case of East Pakistan. There was a major improvement in the level of education of members of this Assembly. 91 of them had university education, and some were even postgraduates from abroad. About 19 had studied up to the Intermediate level, and 24 had not done their matriculation (Ahmad, 1970). With the passage of time, people began to feel alienated with the policies of Ayub Khan.

The political institutions which were created by Ayub Khan were unable to bridge the increasing gulf between the government and the people. Under the Constitution, powers of the legislature were limited. It could not, for instance, withhold assent to the budget proposals. Members of the House mostly represented vested interests as they had not been elected by the common people and lacked the moral courage which springs from direct elections. In these

circumstances the National Assembly failed to reflect the national will (Yusuf, 1980).

The composition of the Assembly was not very different from that of the previous one. The predominance of lawyers from East Pakistan, and of landlords from West Pakistan, showed the re-emergence of the same old pattern in the Assembly's composition. There was a visible change in the representation of business and industrial class. Landlords, lawyers and businessmen counted for 136 members out of 156 members. Peasants and industrial workers were still unrepresented (Ahmad, 1970).

Constitutional Developments

During this time period, the Presidential form of government was adopted. The Assembly's discretion was similar to that of the American Congress, so ministers could participate in the activities of the legislature even if they were not its members (Zakaria, 1972). According to the Act of 1962, powers and responsibilities of legislature were separated from that of executive. Any law passed by the legislature could not be challenged in court. The President, who was also the head of the executive, could even reject the laws approved by the Parliament, and his decision could only be reversed by a vote of three-fourths majority in the Parliament. In case of conflict between the President and the legislature, it was taken to the Electoral College for plebiscite (Government of Pakistan: n.d.). This Constitution gave strong powers to the centre. The powers of the National Assembly were divided under five (5) subjects:

1. Powers of legislation
2. Checks on the use of national finances
3. Checks on the executive
4. Powers to amend the Constitution
5. Powers of accountability. (Government of Pakistan: n.d.)

Legislation

This Assembly is considered more active in the legislative process than its predecessor. 81 bills came into consideration amongst which 35 were passed. Most of the laws were related to the Constitution and the electoral process, like the Political Parties Act of 1962, Constitutional Amendments of 1963 and 1964, and the Referendum Act of 1964. In the beginning, the process of law-making was fast enough, because the President did not intervene too much in the legislative process (Zakaria, 1972).

A committee was appointed for the promulgation of the rules of procedure, but it was ordered to stop its work after a very little time and the

President himself promulgated rules of procedure for the Parliament (Zakaria, 1972).

Day to Day Business

The Assembly was supposed to work for five years. The meeting could be called by the President and he could adjourn it. One third of the members of Assembly could also request for a session. Two sessions of the Assembly were compulsory in a year, which could not be held later than six months (after its election). It was also decided that if a President dismisses the Assembly, he will have to resign from his office. This Assembly worked from 1962-1965, and met 9 times. It only worked for 230 days in the 3 years of its tenure (Zakaria, 1972).

In this Assembly only members of the cabinet could initiate the bills. As a result of this, only official bills could be passed during three years of its action. The President was constitutionally authorised to promulgate ordinances while the Assembly session was in progress, but only after making an announcement of emergency which resulted in fulfilment of most of the Constitutional needs through ordinances. 232 private bills were notified to be presented in the House, amongst which only 35 bills could be presented, and only one was passed (Zakaria, 1972). 396 Adjournment Motions were presented, but only 32 were accepted by the House. Some of the politicians considered the Adjournment Motions out of question in the Presidential form of government, and wished remove this part of Assembly proceedings (Ahmad, 1970).

The first working hour of National Assembly was reserved for Questions and Answers. Abdul Sabbur (Leader of the House) suggested that the Question Hour should be finished as it had nothing to do with the Presidential form of government. The Opposition reacted against it, as this was a major source of criticism against the government's policies. Furthermore, Parliamentary secretaries also favoured the tradition of question hour. So the practice was kept going and 3967 question were asked from 1962-1965 (Ahmad, 1970).

On June 11, 1962 Maulvi Tameez-ud-din was elected speaker of the National Assembly. On November 29, 1963 he was succeeded by A.K.M. Fazal-ul-Qadir (National Assembly of Pakistan, 1962). Too much power was conferred on the Speaker. He could disallow any member for some days, or for unlimited time, from participating in the proceedings. He could even use the sergeant-at-arms to throw out any member from the House. Apparently, the Speaker was elected impartially but he used his powers in favour of the government (Zakaria, 1972).

Elected on a non-party basis, the National Assembly was not properly organized. There were no Treasury and Opposition benches. The then President, General Ayub Khan opposed re-emergence of political parties, for he thought that a House based on a non-party basis would prove more cooperative. In his

inaugural address, he allowed grouping inside the National Assembly on the basis of identity of attitudes (National Assembly of Pakistan, 1962). The grouping of the members was an invitation to group politics, giving the leaders of the groups some leverage to bargain with the President. The grouping was not on the basis of differences in ideas, but was made on the basis of personal, provincial or territorial identities. Some of the groups had more than one leader. The ban on political parties was lifted in the last quarter of 1962. The supporters of President Ayub established a new political party named the Convention Muslim League (CML). Many groups affiliated themselves with CML, and the non-party system converted to a party system. The affiliation of members with different political parties was not on ideological basis, as within a very brief period, 106 members of Legislative Assembly joined the Convention Muslim League, the party of the then president.

National Assembly, 1965-69

The National Assembly elected in the elections of 1964-65 was not exactly a replica of the previous one. The previous Assembly was elected under the shadow of Martial Law with all the restrictions and restraints on free expression of opinion. At that time activities of political parties were banned. The Political Parties Act facilitated the rejuvenation of the political parties, though they were still subject to disabilities, which did not exist before the Elective Bodies (Disqualification) Order (EBDO) and Public Office (Disqualification) Order (PODO). The results of the Presidential election could altogether be different if the Basic Democrats' (BD) elections had held prior to the presidential elections. As it was, whatever freedom was enjoyed by the members was undermined after the defeat of the Opposition candidate for the office of the President. The opposition leader, Miss Fatima Jinnah had lost the elections, and the opposition had no faith in the efficacy and impartiality of indirect elections. Due to these reasons elections lacked a sense of purpose. The result was a complete rout of the opposition in the elections. Even independents secured more seats than the members of Combined Opposition Parties (COP) (Ahmad, 1970). The Chief Martial Law Administrator General Ayub Khan, secured 54.8 per cent of the votes but got 80 per cent seats, while the Opposition secured little more than 25 per cent of the votes, but only 10% of the seats (Afzal, 1988; see also Belokernitsky & Msokalenko, 2013). In total; forty six out of 150 members of the assembly were re-elected among which 31 belonged to West Pakistan. Most of them were landlords and tribal chiefs having agenda of safeguarding vested interests of their community. The class composition of the Assembly remained almost unchanged (Ahmad, 1970). The opposition alleged that the government rigged the elections on a large scale. Due to such allegations; elections lost

credibility, and the results were not accepted by most of the people and political parties.

This Assembly was different from its predecessor as a large number of industrialists won the elections. They were 51 in number, which was the largest group. It reflected the industrial development that had taken place in the country. Lawyers were considered representatives of the middle-classes, but not many succeeded in the elections (Zakaria, 1972). In West Pakistan mainly young people won the elections. There were many reasons for this as some senior politicians had become too old to participate in politics, so their sons and grandsons came forward. Some of the politicians were not allowed to participate in elections because of EBDO. The number of educated candidates also increased, as 93 members were graduates, while 30 people had not graduated (Zakaria, 1972). It shows that more educated people were participating in electoral politics, which was a positive sign for the future.

Legislation

This Assembly was totally under the control of the executive. Its sessions were called for very brief periods. The main reason for this was the President's Ordinance Order. This Assembly passed only 83 laws, while during this period 73 ordinances were promulgated, amongst which 58 were passed by the Assembly, while the others expired before the Assembly could decide their future. The executive body never faced any challenge from the legislature, because it had a rubber stamp majority in the House. It could get important laws passed easily, for this purpose the Government did not even hesitate in suspending rules of procedure of the National Assembly. Of the forty two adjournment motions not even a single motion was allowed to be moved. Most of them were rejected in the Speaker's Chamber, and 13 out of 14 privilege motions were not allowed (Ahmad, 1970). This is the system worked under the control of executive without having powers to legislate. Parliamentary system and the Presidential systems both faced tragic ends because none of these were adopted in their true spirit. The institutions were used to strengthen individuals rather than for the development of institutions. Every step was taken to legitimize the rule of the ruling elite and prolong their tenure.

Day to Day Business

The Assembly met twice in a year. The budget session was of a longer duration. The winter sessions generally held in Dacca. By comparison with the other legislatures, its period in session was brief, meeting for less than two months per year. The brevity of the sessions was conditioned by the convenience of the executive, which remained active in the executive field during the long intervals

between the sessions. (Ahmad, 1970) Only 10 sessions were held from June, 1965 to January 1969. In this period the Assembly worked only for 235 days (Zakaria, 1972).

On June 12, 1965 the Speaker, Deputy Speaker and senior Deputy Speaker were elected unopposed, because the opposition was too weak to nominate any member to contest for any of the above mentioned offices (National Assembly of Pakistan, 1962). The Speaker, Abdul Jabbar Khan, was a great admirer of General Ayub Khan for which he ignored the Parliamentary norms, and never exercised his powers to safeguard the rights of the Opposition. In order to send Opposition members out of the House he did not bother using the Sergeant-at-Arms.

Conclusion

The development of a political system based on democratic institutions and governance has a history which began with the inception of Pakistan. From the beginning as an independent state, several forces were arrayed against the development of a democratic political system. The so-called Vice regal system adopted by the rulers of Pakistan was designed to rule a subject people, and its principal functions were the maintenance of law and order and revenue collection. The institutions it developed were the military and the civil bureaucracy, which themselves were not representative of the diverse, heterogeneous population of India. This was the system of government that the founding fathers of Pakistan knew best. The leadership which followed Jinnah could not agree on a constitutional framework and it was not until 1956 that a Constitution was adopted. Currently, there is a debate among scholars regarding how democratization is faring globally. In Pakistan, the debate over what form of government is suited to the people of Pakistan has been waged since its creation. Although the eighteenth amendment in the constitution seems as a milestone achieved with reference to adoption of a viable federal system but still a lot more work is needed in this reference.

References

- Afzal, M. R. (1988). *Political parties in Pakistan: 1958-1969* (Vol. 2). (Islamabad: National Institute of Historical and Cultural Research. 262.
- Ahmad, M. (1960). *Legislatures in Pakistan*. Lahore, Punjab University.
- Ahmad, M. (1970). *Government and politics in Pakistan*. Karachi, Space Printers.
- Belavadi, S.H. (1988). *Theory and practice of parliamentary procedure in India*. Bombay, N.M. Tripathi pvt.
- Belokernitsky, V. Y. & Vladimir N. M. (2013). *A political history of Pakistan: 1947-2007*. Karachi, Oxford University Press.
- Bukhari, A. H. (1971). *Constitutional history of Indo-Pak*. Lahore, The Carvan Books.
- Callard, K. (1957). *Pakistan: A political study*. New York: The Macmillan Company.
- Choudhary, G.W. (1969). *Constitutional development in Pakistan*. London, Longman Group Ltd.
- Constitution of 1962*. ((n.d.) Islamabad, The Printing Corporation of Pakistan.
- Hamid, A. (1967). *Muslim separatism in India*. Lahore.
- Haq, M. (1962). *An introduction to constitution of Pakistan*. Peshawar, Noor Sons.
- Keith, A. B. (1969). *A constitutional history of India: 1600-1935*. London, Methuen and Co. Ltd.
- Keith, A. B. (Ed.). (1922). *Speeches and documents on Indian policy: 1750-1921* (Vol. 2). London, Oxford University Press.
- Khan, H. (2015). *Constitutional and political history of Pakistan*. Karachi, Oxford University Press.

- Malik, F. (1990). *Aur Pakistan ban giya*. Lahore, Azeem Academy.
- Munir, M. (1980). *Pakistan: from Jinnah to Zia*. Lahore, Vanguard Books Ltd.
- National Assembly Debates* (Vol. 1). (1962). Islamabad, The Printing Corporation of Pakistan.
- National Assembly Debates* (Vol. 2). (1962). Islamabad, The Printing Corporation of Pakistan.
- Shah, S. M. H. (1996). *Religion and politics in Pakistan: 1972-1988*. Islamabad, National Institute of Pakistan Studies, Quaid-i- Azam University.
- Talbot, I. (1999). *Pakistan: A modern history*. Lahore: Vanguard Books.
- Talbot, I. (2015). The Democratic Phase. In Roger D. Long (Ed.), *A History of Pakistan* (pp. 454-484). Oxford: Oxford University Press.
- Yusuf, H. (1980). *Pakistan in search of democracy*. Lahore, Afrasia Publications.
- Zakaria, N. (1972). *Pakistani Idaray*. Lahore, Aziz Book Depo.