

This E-Bulletin focuses on major developments in Pakistan on weekly basis and brings them to the notice of strategic analysts and policy makers in India.

EDITORIAL

The dismissal of Nawaz Sharif as the prime Minister and the debate over some of the clauses in the Articles 62 and 63, which were introduced by General Zia ul Haq in the Pakistan constitution, remained the focus of discussion in Pakistani media this week. In spite of visible discomfiture in the political circle regarding invocation of these articles, there was a clear lack of political consensus over the issue of amending the constitution to suitably modify the relevant clauses. The economy did not look bright as weekly remittances decreased and foreign reserves went down to \$21 billion, giving rise to the fear of a balance of payment crisis to meet external debt obligations. All this may create further problems for the government preparing itself for the elections early next year.

COMMENTARY

Pakistan: Can the Constitution be Amended?

*Sumita Kumar**

Former Prime Minister Nawaz Sharif's ouster from office due to a Supreme Court decision on 28 July 2017 has brought the debate about the relevance of Articles 62 and 63 of the Constitution into sharp focus in Pakistan. The clauses within these articles lay down the qualifications required for membership to the Majlis-e-Shoora (Parliament) and conditions under which a parliamentarian can be disqualified. While some of the provisions mentioned in these articles can be objectively determined and corroborated, others are rather ambiguous in nature. There are still others which are moralistic and allow scope for subjective interpretation.

According to the Supreme Court judgement, Nawaz Sharif had failed to fully disclose his assets as required under Section 12(2) (f) of the Representation of the People Act (RoPA), 1976 when filing his nomination papers for the 2013 elections. As such, the court found him to be "not honest in terms of Section 99 (f) of RoPA and Article 62(1) (f) of the Constitution of the Islamic Republic of Pakistan, 1973". According to RoPA, a person cannot be qualified to be a member of an Assembly unless "he is sagacious, righteous and non-profligate and honest and ameen". While the same virtues are listed in the Constitution as qualifications for membership to the Majlis-e-Shoora, there is a further caveat which states: "...there being no declaration to the contrary by a court of law". Nawaz Sharif was disqualified from being a member of Parliament by a notification of the Election Commission of Pakistan (ECP), thus forcing him to demit the office of Prime Minister.

Various provisions related to the morality of the parliamentarians such as having "good character" and "adequate knowledge of Islamic teachings", as well as the qualities defined in Article 62(1) (f) were inserted into the 1973 Constitution at the behest of General Zia-ul-Haq for the persecution of political opponents. Ever since, the mainstream political parties have borne the brunt of decisions taken by the Supreme Court under the provisions contained in Article 62 and 63 of the Constitution. In 2012, while Prime Minister Syed Yousuf Raza Gilani heading the PPP led government, was convicted by the Supreme Court for contempt of court, he was disqualified as member of Parliament and ceased to be Prime Minister in terms of Article 63 (1) g, which states that a member can be disqualified for "acting in any manner prejudicial...to the integrity or independence of the judiciary of Pakistan or which

defames or brings into ridicule the judiciary...” This was a result of his refusal to obey a Supreme Court order to reopen investigations regarding corruption against President Asif Ali Zardari.

In the present circumstances, judicial encroachment on civilian political space, sometimes in collusion with the military remains a distinct possibility. As of now, clauses within Article 62 and 63 leave a margin of possibility for the military to manage the politicians without recourse to completely derailing democracy. The political uncertainty that followed Nawaz Sharif’s removal has again brought to the fore the need for a dialogue between institutions.

Sharif’s dismissal gave rise to two opposing opinions within Pakistan. While one strand hoped that this would ensure higher standards of accountability of the politicians in the future, the other strand questioned as to how many people holding public office would be able to stand scrutiny on the basis of certain provisions of Article 62 and 63. It has been opined that it is unfair to expect only politicians to meet such exacting standards of accountability and not the bureaucrats or judges.

A suggestion has already been made by Senate Chairman Raza Rabbani that there should be a dialogue between various state institutions-- the parliament, the military establishment and the judiciary— so that a consensus on democracy and the functioning of the different branches of government could be arrived at. While Nawaz Sharif was quick to endorse Rabbani’s initiative, his hopes of strengthening democratic forces within the country by amending the Constitution took a nosedive as most of the opposition parties refused to support the ruling party’s stand on the matter.

PPP Co-Chairman Asif Ali Zardari has categorically refused to become part of a “grand national dialogue”. Imran Khan, Chairman of Pakistan Tehreek-e-Insaf (PTI) has also refused to support the PML-N in amending the Articles. JUI(F) chief Maulana Fazlur Rehman is of the opinion that some words in the Articles need to be defined clearly, and that there is no need to repeal them.

Nawaz Sharif’s refusal to appear before the National Accountability Bureau (NAB) till he gets a response on the review petition he has filed with the Supreme Court against its decision to disqualify him from office, without

conducting a regular trial, has drawn the ire of the Jamaat-i-Islami Chief Sirajul Haq. While addressing a public meeting he said that “No one is above the law in the country...” and demanded accountability for all segments of society including politicians, judges, Generals and journalists. He made it clear that attempts to amend the Constitution would be opposed by him. Pakistan Awami Tehreek (PAT) Chief Tahirul Qadri believes that the Sharif family has no locus standi to berate anyone given their susceptibility to corruption, and their past antecedents of conspiring against Benazir Bhutto.

Opposition parties seem more amenable to the approach proposed by Raza Rabbani rather than the one by Nawaz Sharif. However, the parties stated that they would be able to put across their viewpoint once they knew the mechanism and the level at which the dialogue would be conducted. Senators were in favour of either repealing or amending Articles 62 and 63. A consensus seemed to be emerging about the fact that these laws should not only apply to the lawmakers, but also to bureaucrats and those holding important positions.

Pushing through these amendments would probably provide respite to political parties across the spectrum. For instance, Asif Ali Zardari has had an illegal assets case reopened against him by the NAB, which was closed in 2007 under the National Reconciliation Ordinance (NRO) deal signed between General Musharraf and the then PPP chairperson, Benazir Bhutto. It provided amnesty to politicians, political workers and bureaucrats in corruption cases. In 2009, the NRO was declared void, and all the cases dropped against Zardari were to be revived. However, he had acquired immunity as President of Pakistan and these cases could not be pursued. PTI is under the scanner of the ECP and is accused of having failed to disclose sources and details of foreign funds received. Inability to arrive at a consensus on this issue by various parties will weaken democracy.

A Bill to amend the Constitution can be introduced in either House, and needs to be passed by two-thirds majority in both the Houses, before it can be sent to the President for his assent. As it stands, PML-N along with its coalition partners falls short of two-thirds majority (228 seats) in the National Assembly. Unless other parties like the PPP which have felt the impact of such provisions can be persuaded to join hands with the PML-

N, not much can be expected in the immediate future. The PML-N would need the support of 70 Senators for securing two-thirds majority in the Upper House, which is not achievable at the moment. The PML-N is expected to garner more seats in the Senate elections to be held in March 2018. Whether it will have any impact will depend on the prevailing situation at the time.

* Ms. Sumita Kumar is Senior Research Associate and member of the Pakistan project at IDSA.

THE WEEK AT A GLANCE

ECONOMY

Economy needs structural change, but transition is painful

Media commentators come up with a description of upcoming balance of payments (BOP) crisis by looking at weekly dwindling foreign exchange reserves which has been happening since October 2016. All these descriptions manifest disequilibrium in BOP, especially when the government draws on its foreign exchange reserves and it has to do excessive foreign borrowing. The foreign exchange reserves went down to \$21 billion in June 2017 and net borrowing from the rest of the world remained at \$11.8 billion. The current account deficit turned out to be at 4% of gross domestic product (GDP) in fiscal year 2016-17. On the basis of this deficit, the IMF has reached a simple conclusion that the rupee is overvalued in the range of 10-15% and there is a need to devalue the currency to attain equilibrium.

<https://tribune.com.pk/story/1480832/economy-needs-structural-change-transition-painful/>

China plans petrochemical complex near Karachi

Chinese proposal to set up a refinery along with a downstream petrochemical complex near Karachi is advancing steadily as requests for 500-1,000 acres has been submitted to the provincial governments of Sindh and Balochistan. The estimated cost of the project is about \$4 billion. The complex envisions a number of jetties, a refinery with 10 million tons per year capacity, as well as downstream processing facilities for naphtha and its component chemicals. Currently Pakistan is importing \$2bn worth of these chemicals from the

Middle East and it is estimated that then complex could help reduce Pakistan's external deficit.

<https://www.dawn.com/news/1351945/china-plans-petrochemical-complex-near-karachi>

Government plans to strike LNG deals with big African producers

With an ambitious plan to double the volume of liquefied natural gas (LNG) imports this year, the government intends to ink multibillion-dollar state-to-state gas supply contracts with big African producers – Nigeria and Algeria, sources say. Pakistan is currently importing 4.5 million tons of LNG per annum and the volume will shoot up to 9 million tons before the end of this year. Projections show that Pakistan will annually need 20 million tons of LNG within three years and 30 million tons in five years.

<https://tribune.com.pk/story/1484289/govt-plans-strike-lng-deals-big-african-producers/>

CPEC provides avenues to target \$100b Chinese agri-market

The China-Pakistan Economic Corridor (CPEC) is a golden opportunity for overall development of this region and Pakistan should reorganize its agriculture sector to get a major slice of the \$100 billion worth of agriculture produce imports by China, suggested Muhammad Mehmood, Punjab Agriculture Secretary. Speaking at the launch of a study on “CPEC – Prospects & Challenges for Agriculture”, Mehmood pointed out that nearly one-fourth of the world's population was living in China and most of its exports would be routed through Pakistan after the completion of CPEC.

<https://tribune.com.pk/story/1484291/cpec-provides-avenues-target-100b-chinese-agri-market/>

POLITICS

Nawaz Sharif files 3 petitions against Panamagate verdict in SC

Ousted Prime Minister Nawaz Sharif filed three separate petitions in the Supreme Court to review and stay further implementation of the Panamagate verdict that resulted in his disqualification. The appeal, in reply to the petition

filed by Sirajul Haq, was submitted by Nawaz's lawyer Khawaja Harris. The five-member apex bench that took the unanimous July 28 decision last month is expected to hear the review petition.

<https://www.dawn.com/news/1351705/nawaz-sharif-files-3-petitions-against-panamagate-verdict-in-sc>

Fazl declines to support removal of Articles 62, 63

Jamiat Ulema-i-Islam (F) chief Maulana Fazlur Rehman called on former Prime Minister Nawaz Sharif at his Jati Umra residence but declined to support his endeavour to have Articles 62 and 63 expunged from the Constitution. While he did not face the media after meeting Mr. Sharif, sources say Fazlur Rehman did not give his consent to support the PML-N in removing Articles 62 and 63. The JUI-F chief asserted that removal of such provisions would deface the Constitution and cause uncalled for political crisis in the country, said sources.

<https://www.dawn.com/news/1352251/fazl-declines-to-support-removal-of-articles-62-63>

Nawaz dismisses perception of differences with all army chiefs

Former Prime Minister Nawaz Sharif has rejected the perception that he has had differences with all army chiefs, saying his government also had cordial relations with certain military leaders. In an interview with the BBC this week - his first detailed interview with foreign news media after the Supreme Court disqualified him as prime minister on July 28 in the Panama Papers case, Nawaz said, "I have had a cordial relationship with army generals. I have never deviated from the constitution and strongly believe in the rule of law," he said.

<http://dailytimes.com.pk/islamabad/18-Aug-17/nawaz-dismisses-perception-of-differences-with-all-army-chiefs>

Clash of PML-N and PTI workers

Workers and supporters of Pakistan Tehreek-e-Insaf (PTI) and Pakistan Muslim League-Nawaz (PML-N) clashed in Khanewal on Friday morning which left one supporter of PML-N dead and two injured. The people injured in this incident were taken to the District Headquarters Hospital for treatment while the police are currently searching for those who managed to flee the scene. The deceased PML-N supporter has been identified as a teenager named Aalim Amir who was a student of second year. To take further action against those involved, cases have been registered by the police against 13 members of ISF, the youth wing of PTI.

<http://dailytimes.com.pk/features/18-Aug-17/clash-between-pml-n-pti-workers-leaves-teenager-dead>

SECURITY

US blacklists Kashmir's Hizbul Mujahideen as 'terrorist' group

The United States added the Kashmiri separatist group Hizbul Mujahideen to its blacklist of terrorist organisations on **Wednesday, 16 August** amidst renewed protests against Indian oppression in the region. US authorities had already designated the group's leader, Syed Salahuddin, a "global terrorist", but he is still able to operate in Kashmir, where his group has strong support. The State Department designation bans US citizens and residents from dealing with the group and any assets found to belong to the Hizbul Mujahideen in areas under US jurisdiction will be frozen.

<https://www.dawn.com/news/1351930/us-blacklists-kashmirs-hizbul-mujahideen-as-terrorist-group>

Editor: Dr Smruti S Pattanaik, Coordinator, Pakistan Project

News compiled by: Dr Zainab Akhter