

Parliamentary Empirics

Dr. Sania Nishtar

The 18th Amendment to the Constitution is being hailed on a two-fold premise: one, that it will proclaim and empower the Parliament as supreme; and two, that it will fundamentally redress the basic anomaly of Pakistan's parliamentary system of government, which has been presidential in substance after the 17th Amendment and, therefore, configure its true parliamentary form.

It is acknowledged that the Amendment has rectified a fundamental distortion in the Constitution. Its importance notwithstanding, the Amendment does have its limitations in upholding parliamentary supremacy in a context where distortions are pervasive. A snapshot of available empirical details about parliamentary performance can be insightful in this regard.

Pakistan's bicameral federal legislature comprises the president, the National Assembly and the Senate. The National Assembly has technically been fulfilling the constitutional requirement of holding sessions for a certain number of days per year for sometime now. However, as the key institution of democracy, it has not performed optimally in relation to some of its key functions, particularly with regard to holding the government accountable for actions, scrutinizing its performance, monitoring the expenditure of public funds, and providing an effective forum for deliberations on matters of national interest and for addressing substantive grievances.

The assemblies have had almost no role in deliberating upon, scrutinizing, and therefore holding the government and its policymakers responsible for decisions in some key public policy domains and the impact as a result thereof. Foreign policy and substantive economic issues are seldom the subject of debate in the assemblies. Fiscal policy is discussed as part of the budget deliberations, where a complex package of policy decisions are bundled in a single cumbersome instrument which is conventionally scurried through the process in an unnecessarily tight timeline. The recent change in the budget time cycle is positive but given the limited analytical ability of parliamentarians, lack of indigenous research and technical capability and disconnect from policy agencies outside the state sector, it is unlikely to transform the process outright. In any case, the frameworks that determine fiscal directions and planning at an overarching level—Poverty Reduction Strategy Paper, Medium Term Development Framework, the International Monetary Fund frameworks and agreements, and stipulations of bilateral and multilateral agency grants and loans—are never placed in the parliamentary domain for discussion, nor are their implications highlighted in layman's terms for public representatives to comprehend. These have a huge immediate and long-term impact, both within and outside of the fiscal rubric, but are never the subject of public scrutiny.

Similarly, whilst it is acknowledged that policymaking is the government's mandate, there is a lot of value to be added when policy positions are deliberated upon in the Parliament. This becomes all the more important when the executive is drawn from the legislature, and also since laws can be instruments of policy in their own right. However, that is seldom the case and formal policies are usually channeled from the executive to the Cabinet for approval, bypassing the assemblies.

The parliamentary committees, where the Parliament is meant to be 'at work,' have limited capacity and no substantive research fall back. Hence, one of the potential strengths of the Parliament, which has to do with providing a platform for deliberations, oversight, and scrutiny, is not being appropriately harnessed in Pakistan's parliamentary system. As a result, the executive remains largely unchecked in its decision making prerogatives.

These anecdotal insights and observations have been substantiated by evidence from a recent study conducted by the Pakistan Institute of Legislative Development and Transparency (PILDAT). The evaluation of the Parliament in Pakistan was based on an analytical framework

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Governance

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These anecdotal insights and observations have been substantiated by evidence from a recent study conducted by the Pakistan Institute of Legislative Development and Transparency (PILDAT). The evaluation of parliament in Pakistan was based on an analytical framework developed by the International Parliamentary Union, the international apex body of parliaments of sovereign states and was centered on six domains. In the 'representativeness' domain, the study results show that the weakest aspect of representation of the National Assembly is the near impossibility of a person of average means to get elected to parliament. In the 'effectiveness' stream, the weakest aspect of parliamentary oversight over the executive is reported to be its inability to scrutinise executive appointments. With reference to the 'effectiveness of legislation,' the capacity of the National Assembly and weak processes for consulting various interest groups are highlighted as the main constraints. The weakest aspect of 'transparency' is related to lack of opportunities for citizens' involvement in legislation through citizen-based initiatives.

In the domain of 'accountability,' gaps in transparency of procedures to prevent conflict of interest in the conduct of parliamentary business and limited oversight of funding to candidates and political parties have been flagged as issues. In terms of 'effectiveness of the National Assembly's involvement in international policy,' the following constraints have been highlighted: limitations of parliament to scrutinise and contribute to the government's foreign policy; lack of availability of information to parliament on ongoing negotiations with international

entities; and inability of parliament to influence the government's development policy as a donor and recipient, and international relations in general. However, the report also acknowledges some plus-points with reference to representation of women in parliament and freedom to journalists in reporting on the National Assembly and its members.

Despite many constraints, some recent improvements in the performance of parliament must be acknowledged. These include the prime minister's respect for parliamentary etiquette, appointment of the leader of opposition as chair of the Public Accounts Committee and increase in the time-cycle of the budgetary debate, as already mentioned. Similarly, the Acts to Ordinance Ratio has been improving. In the 12th National Assembly, the Acts to Ordinance Ratio was 42:73. In the first year of the 13th National Assembly, the ratio remained likewise, 4:17, but an improvement has been evident in the second year with an Acts to Ordinance Ratio of 29:27. The recent constitutional amendments impose a limit on the number of times an ordinance can be renewed and hence there will be safeguards against a pattern that was established earlier — three ordinances were re-promulgated ten times during the tenure of the 12th National Assembly.

Whilst these changes are welcome, we must be realistic about our expectations in view of what has been stated previously: The reform process, which has begun with constitutional amendments, has a very long way to go. It is imperative that we mitigate the influence of feudal and business interests in parliament, counter the role of big money in politics, and prevent conflict of financial or other interests. This is a Pandora's box in its own right as it has to do with reform of the political process itself. The unfinished business of 17(4) and 63(A) does not inspire confidence in this respect. It also requires a transformation in the capacity of parliament and its institutional culture with reference to transparency, openness, disclosure and harnessing the capacity of the non-state sector.

It must be recognised that the problems in parliament are not amenable to technocratic fixes but are related to some deep-seated problems in the manner in which the executive operates in relation to legislature, particularly with reference to the latter's scrutiny-related function. Many loopholes exist to bypass processes and protocols, as and when the need arises. With the president as the head of the ruling party, the avenue to wield influence over the executive remains open even after the 18th Amendment. Only time will tell if that power is exploited or not. Meanwhile, we have to be cautious about our expectations of parliament in a very complex space.

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