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Legislation Regarding Political Parties in Pakistan and Impacts on its Political System: A Historical Analysis

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Abstract

This research article deals with the rules and regulations adopted in Pakistan, concerning political parties since the inception of 1962 constitution and Political Parties Act 1962. It also analyses the impacts of these regulations on the political set up of Pakistan. As the political arena of the country is characterized by the continuous struggle for power acquisition between civilian governments and powerful military establishment, these rules have been used by both to control their opponents and to stay in power by curbing the opposition. The article analysis the Political Parties Act 1962 imposed by General Ayub Khan, the Political Parties Order 2002, introduced during Musharraf era the Elections Act 2017, introduced by PML-N government led by Nawaz Sharif and the Twenty Sixth Constitutional amendment brought by the coalition government of PPP, PML-N and JUI-F. The article has also covered the Eighteenth Amendment 2010 and its judicial interpretation. The study shows that governments in Pakistan have brought drastic changes in the constitution in the past to control their competitors. This has been one of the striking features of political development in Pakistan, resulting in a hybrid and weak political system, with politics based on political victimization.

Keywords: Political Parties, Legislation, Political Parties Act 1962, Political Parties Order 2002, Elections Act 2017, Constitutional Amendments, Election Commission, Civil-Military Relationship.

1. Introduction

The laws that regulate political parties are of prime importance in any democratic country. It provides a code of conduct for them, including their formation, organization, and the procedure to take part in elections. Political parties provide an organized forum for the citizens of a democratic country to have access to the rules making institutions of their country by electing politicians having the same political ideas and beliefs that may present their issues on the national forums, especially in the parliaments. But these parties need some rules and regulations that the basic laws of every country provide for their formation. Political parties are considered the spirit of democracy, and democracy cannot work properly when there are no proper rules for the formation of political parties.¹

Pakistan came into being in 1947 after getting rid of the British suzerainty, since then, the governments have introduced political parties' rules many times. It shows that Pakistan faced difficulties in the way of

stable democracy by frequently changing these rules to preserve specific interests. The country also saw the imposition of Martial Laws that introduced such laws that badly affected the growth and development of political parties in the past. General Muhammad Ayub Khan, General Yahya Khan, General Zia-Ul-Haq and General Pervez Musharraf; introduced such rule and regulations, concerning political parties that controlled the parties and politicians in their favour and led to political victimization in Pakistan.ⁱⁱ

The constitution of the Islamic Republic of Pakistan of 1973 endorses the basic political right of the Pakistani citizens under article 17, to form political parties or to join the existing one. Every citizen is free to form associations, but this right is subject to state regulations and the law has imposed some restrictions, if the party or association is found working against the interests of the state or threatens the integrity or the unity of the country. It has been a matter of conflict throughout the history of Pakistan and subsequent governments have altered the constitutions either to ease or restrict these rules.ⁱⁱⁱ

In 1974, the constitution of 1973 was amended for the first time and some rules were added for safeguarding the sovereignty and territorial integrity of the country. It was made clear that if a political party is found working against the ideology, security or national interests of Pakistan that will be banned. During Pervez Musharraf era 1999-2008, Legal Framework Order 2002 was introduced in the country, it further specified some other reasons for banning a political party that included: endangering public order, supporting a militant group and promoting sectarian feelings or spreading hatred among the people. But when the Eighteenth Amendment was introduced in 2010, it abolished these new restrictions and the former rules of 1974 were retained. Thus the rules regulating political parties were changed by succeeding governments in the constitutional history of Pakistan.^{iv}

The original constitution of 1973 did not restrict political parties and only their fund raising procedure and sources were to be scrutinized, so that a party may not receive funds from foreign countries or organizations. But later the government realized the need to impose other restrictions on political parties in the best interests of the state. Thus understanding article 17 is of prime importance in this connection that empowered the government to impose ban on such parties that were suspected of working against the interests of the state. It was mostly during the time of military governments but the civilian rule showed some sort of elasticity. This ups and downs shows the tassel between party free will and state restrictions.^v

The study analyses the laws relating to political parties in Pakistan from 1962 onwards in a chronological order and has covered three main regulations in detail. The first is the Political Parties Act 1962 that was the first major development in this regard. It banned parties not coming within the legal orbit of the constitution.^{vi} The second is the Political Parties Order 2002, introduced by the military regime of General Pervez Musharraf that further restricted the formation and maintenance of political parties with respect to registration, internal party democracy and sources of funding. The current Elections Act of 2017 has all the provisions of the former two Acts and has provided a complete code of conduct for political parties operating in Pakistan.^{vii}

This study has also examined the 2024 constitutional changes that the Supreme Court initiated in January with respect to the election symbol case of Pakistan Tareek-e-Insaf, the July 2024 judgement on reserved seats and the 26th amendment of October 2024, although it is not a direct law concerning political

parties' names but has negatively impacted political parties and their disputes to be decided by the courts. In whole, the study presents an assessment of the party legislation in Pakistan from historical perspectives since 1962 to the present.^{viii}

Political Parties Before 1962

After gaining independence from British in August 1947, Pakistan inherited the party politics of British India but had no rules and regulations to govern political parties. The early years were marked by the domination of Muslim League that had played a key role in the partition of the sub-continent. But after the deaths of Muhammad Ali Jinnah in 1948 and Liaqat Ali Khan in 1951, the party disintegrated and was divided into factions. During the 1950s, Pakistan saw the formation of other parties such as the leftist National Awami Party, formed in 1957, that proved helpful in bringing together the Pashtuns, Baloch, Sindhi and Bengali politicians and intellectuals together.^{ix} The state of Pakistan was ready to declare any party unlawful that was suspected to work against the national interests. Thus the Communist Party of Pakistan was banned on the pretext to have tried topple down the government of Liaqat Ali Khan and many of its leaders including the poet Faiz Ahmad Faiz, were sent behind the bars.^x

This situation of restraint continued during the first decade till October 1958, when General Muhammad Ayub Khan imposed Martial Law in the country and abrogated the constitution of 1956. All political parties were banned and new elections were scheduled on the basis of Direct Adult Franchise and a new system, called the Basic Democracies System (BD System 1959)^{xi}, was introduced in Pakistan to work as an indirect electoral college to elect the president and the members of the newly introduced unicameral legislature. After that, General Muhammad Ayub Khan introduced the constitution of 1962 that was presidential in nature. The way was thus paved for political parties to work after the passing of the first Political Parties Act in 1962.^{xii}

The Political Parties Act 1962

The bill for the purpose of regulating political parties was introduced in the select committee of the National Assembly; comprising different shades of opinions, on July 4, 1962. The committee did not give its assent to its provisions and returned it to the Assembly after three days, citing its disagreement on its *modus operandi* but the Assembly passed it in its original form on July 14, 1962. Ayub Khan put his final signature on it on July 16 and the bill came to be known as the Political Parties Act 1962 or simply Act III 1962.^{xiii} The Act was a key legislation that made the parties lawful after Martial Law but at the same time, imposed strict restrictions on their political activities. The Act was a strong response from the military dictator to control his political opponents in the face of realities he faced. It was a sort of "Guided Democracy".^{xiv}

The Act was defined as Political Parties Act 1962 and was enforced at once, it defined certain terms as: "Constitution means, the Constitution of the Islamic Republic of Pakistan enacted on March 1, 1962. Foreign aided party was defined as, a political party which was formed or organized at the instance of any government or a political party of a foreign country or receive any aid financial or otherwise from any government or political party of a foreign country or a substantial portion of its funds from foreign nationals. Political party was defined as, a body of individuals or an association of persons setting up an organizational structure or collecting funds or owning property, with the object of propagating political opinions or indulging in any other political activity."^{xv}

It prohibited the formation of some political parties on some specific grounds and made it clear that, "No political party shall be formed with the object of propagating any opinion or acting in a manner prejudicial to the Islamic ideology or the integrity and security of the country." It further stated that "no person shall form, organize, convene or set up a foreign aided party or in any way be associated with any such party." The Act also made clear the lawful activities and added that "Subject to the provisions of section 3, it shall be lawful for anybody of individuals or association of persons to form, organize or set up a political party; for any person to be a member or office bearer of or be otherwise associated with a political party; or for any person for the purpose of an election to be held under the constitution, to hold himself out or any other person as a member or to have the support of a political party, the formation, organization or setting up of which is not prohibited by this Act."^{xvi}

The Act also stipulated the rules for the disqualification of a member of a political party and stated that "No political party shall have its member or office bearer any person who is disqualified under sub-section 2. A person shall be disqualified for being a member or office bearer of a political party, if he has been convicted of any offence and sentenced by an ordinary court of law to transportation or to imprisonment for not less than two years, unless a period of five years has elapsed since his release; if he has been disqualified from holding public office under Article 121 and 122 of the constitution, unless the period of his disqualification has expired; if he has been dismissed from the service of Pakistan, unless a period of five years has elapsed from the date of his dismissal; or if he is, for the time being, disqualified for membership of an elective body under clause 2 of article 7 or clause 2 of article 8 of the Elective Bodies Disqualification Order, 1959."^{xvii}

Section 6 of the Act provided for Reference to Supreme Court Regarding certain Parties by elaborating that "Where the central government is of the opinion that any political party has been formed or is operating in or is operating in contravention of section 3, it shall refer the matter to the Supreme Court and the decision of the Supreme Court on such question, given after hearing the person or persons concerned shall be final; where the Supreme Court, upon a reference under sub-section 1, has given a decision that a political party has been formed or is operating in contravention of section 3, the decision shall be published in the official Gazette, and upon such publication, the political party concerned shall stand dissolved and all its properties and funds shall be forfeited to the central government."^{xviii}

It also ensured some penalties for the dissidents of this Act and clarified that "If any person who is disqualified under sub-section 2 of section 5, becomes a member or office bearer or holds himself out as a member or office bearer of a political party, he shall be punishable with imprisonment for a term of two years or fine or both; any person who after the dissolution of a political party under sub-section 2 of section 6, holds himself out as a member or office bearer of that party, or acts for, or otherwise associates himself with that party, shall be punishable with imprisonment for a term which may extend to two years or with fine or both."^{xix}

Certain disqualification for being a member of the National Assembly or a Provincial Assembly were also given in the Act and stated that "A person who has been an office bearer of the central or provincial committee of a political party dissolved under sub-section 2 of section 6 or who has been convicted under section 7, shall be disqualified from being elected as a member of the National Assembly or a Provincial Assembly for a period of five years from the date of such dissolution or conviction, as the case may be; if a person, having been elected to the National or a Provincial Assembly as a candidate or

nominee of a political party, withdraws himself from it, he shall from the date of such withdrawal, be disqualified from being a member of the Assembly for the unexpired period of his term as such member, unless he has been re-elected at a bye-election caused by his disqualification.”^{xx}

Section 9 and 10 of the Political Parties Act 1962 dealt with sanction for prosecution and repeal, it highlighted that “No prosecution under this Act shall be instituted against any person without the previous sanction in writing of the central government.” It also repealed the Political Organizations (Prohibition of Unregulated Activity Ordinance, 1962 (XVIII of 1962)).^{xxi}

Working of the Act of 1962 under Ayub Khan

After the promulgation of the presidential constitution and Political Parties Act in 1962 by General Ayub Khan, that concentrated all powers in the hands of a single person, he also introduced a different type of local government system known as Basic Democrats and through that the National Assembly was elected indirectly rather than through the adult franchise system. Although, political parties were permitted to work but under a strict supervision introduced in the constitution that restricted their influence to a greater extent. In 1964, an electoral alliance Combined Opposition Parties was formed under the leadership of Fatima Jinnah, the sister of Muhammad Ali Jinnah and contested the presidential election of 1965 against Ayub Khan simply because the Ayub regime successfully used the members of Basic Democrats to favour the ruling government. During this period, the parties were free to take part in the system of the country, but they were not really capable of doing so and was just a myth. The rules were formed in such a manner that had inherently restricted the working of political parties.^{xxii}

Yahya Khan, his Legal Framework Order and Political Parties

General Muhammad Ayub Khan ceded power on March 25, 1969 following the massive protests of students, workers, political parties and the resultant loss of military backing. He handed over the reign of the government to Yahya Khan, the then Army Chief of the country. He imposed martial law and abrogated the constitution of 1962. He took over as the Chief Martial Law Administrator (CMLA) and the president as well. He divided Pakistan in to two zones for martial law administration, namely West Pakistan as zone A and East Pakistan as zone B, after the dissolution of one unit on July 1, 1970, the West Pakistan was divided into 4 provinces as new zones and each zone was administered by a Martial Law Administrator. Key posts in every zone were given to military officers. Military courts were established to bring to trial the violators of martial law. The Supreme Court and High Courts were prohibited to take any action against the decisions of the military courts and orders of CMLA. Military officers were appointed to consult him in the affairs of the government. Top bureaucracy was also deprived of decision making powers as it did earlier during the Ayub regime by implementing his policies. Yahya Khan removed 303 government servants including 28 CSP officers and were tried in military tribunals, some were forcefully retired from service. He himself was the reservoir of all state powers and used it in according to his own will.^{xxiii}

The government banned political activities of the political parties, although, the parties were not banned or their leaders arrested. Parties or their organs such as working committees or councils could not held meetings freely. Trade unions and student unions were also restricted from their free will. Later, in June 1969, the government eased the restrictions and the working committees of the parties were allowed to hold meetings and the politicians were permitted to express their point of views on political issues but were not free to criticize the orders of CMLA or hold public meetings in open spaces without the

permission of the military government. As the regime was in need to install a constitutional government, that was not possible without the restoration of democratic principles, thus he allowed political activities in Pakistan on January 1, 1970, but before doing so, he issued an order that prevented political parties to propagate or spread views against the ideology and security of the country and using any violence, threat or money to prepare ground for the political ideology of any political party or group or pressurize media in favour or against any political party or hinder the way of holding elections. The disqualified government servants were also debarred to become members of political parties.^{xxiv}

The regime made bound the political parties to inform the district administration of their political activities in the concerned districts. The district administration was to make such arrangements and to ensure that no inconvenience or any clash may occur during such an event. No meeting of any political nature was allowed without the prior permission of the CMLA. The violators were to be given punishments including three years imprisonment or fine, other laws earlier enforced during the Ayub era, were kept operating. Although the regime showed some sort of elasticity in enforcing these strict laws and awarded sentences in very few violations, this led to the bad impacts on the law and order situation and the state of virtual anarchy in the country, because Yahya Khan was sure that he could bring easily, any situation at any time, under his control.^{xxv}

Yahya Khan also hinted the holding of general elections for that he needed a constitutional setup. As he had abrogated the constitution of 1962, he had three options; to restore the 1962 constitution with amendments, to revive the constitution of 1956 and or to frame a new constitution. For this purpose, he held private meetings with the heads of political parties separately. No political party was in position to support the restoration of 1962 constitution including the Convention Muslim League (CML)^{xxvi}. The parties including in the Pakistan Democratic Movement; Council Muslim League, Awami League (Nasrullah Group), Nizam-e-Islam Party, Jammat-e-Islami and the National Democratic Front supported the restoration of 1956 constitution. Other parties such PPP and National Awami Party; Bashani and Wali Khan, both factions had also some supporters for the restoration of this constitution. But, Awami League did not give its assent to this proposal and thus Yahya Khan had to abandon this idea. At this Yahya Khan made it clear that if all the political parties could not reach an agreement, he will chalk out his own constitutional plan. Some regional parties such as Sarhad United Front, Baluchistan Provincial Association, Bahawalpur United Front, Punjab Ittehad Tehreek and Sindh United Front had their own demands and reservations that made the process more complicated. Thus Yahya Khan introduced his own Legal Framework Order on March 28, 1970 and brought a new political system in the country.^{xxvii}

The Legal Framework Order paved the way for free and fair elections in the country based on universal adult franchise with one man one vote system. It was the first general election in the country and all political parties were made free to take part in it. About twenty four political parties were to contest election, first time in the history of Pakistan. Yahya also advised the smaller political parties to contest the election by making alliance, but they did not agree to his proposal. He made it clear that his only objective was to transfer power to the people peacefully. The two major parties were Awami League of Sheikh Mujib in East Pakistan and Pakistan People's Party in West Pakistan led by Zulfikar Ali Bhutto. As they both were strong orators, they took full benefit of radio and television and put their motives and programs before the people. Bhutto raised the voice of Islamic Socialism and nationalization of industries, stressed upon neutral foreign policy and spoke against the concentration of wealth in few

hands. His slogan of *Roti, Kapra and Makan* attracted the poor population of West Pakistan. On the other side Mujib decided to contest election on the basis of his six points program and raised the issue of exploitation of the Eastern wing by the West Pakistan. Pakistan People's Party did not bring any candidate in East Pakistan but Mujib nominated seven candidates in the West Pakistan as well, but in vain. It widened the gap between the two parties that proved devastating for the integrity of the country. The elections resulted in victory for Awami League in East Pakistan and Pakistan People's Party in West Pakistan. Awami League won 160 out of 162 general seats in East Pakistan and Pakistan People's Party won 81 out of 86 seats in West Pakistan, the results had clearly marginalized the two wings. Bhutto was not in position to admit the six points program of Mujib and also refused to attend the National Assembly session in Dhaka. The deadlock continued that finally resulted in the disintegration of Pakistan on December 16, 1971.^{xxviii}

The Bhutto Era and Regulations of Political Parties

After the debacle of 1971 and resultant fall of Dhaka, violent demonstrations began in West Pakistan against the military and Yahya regime. This led to the revolt of army against Yahya Khan, in GHQ Rawalpindi on 19 December 1971. Yahya resigned and the leader of the winner party in West Pakistan Z. A Bhutto was sworn in as the new president and as civilian Chief Martial Law Administrator, on 20 December. Bhutto had many tasks before him to tackle including normalization of relations with India, release of war prisoners in Indian custody, restoration of the national moral, nationalization of industries, land reforms and the introduction of a new constitution in the country.^{xxix}

During the rule of Zulfiqar Ali Bhutto, political parties were ruled by the Act of 1962 and was amended in 1975 to consolidate his powers in office and to suppress his opponents. The president through an ordinance dated December 26, 1975 amended the Act of 1962. The ordinance was called "Political Parties Amendment Ordinance, 1975." Act of 1962 was amended and certain disqualifications for being a member of Parliament or a Provincial Assembly were added by stating that "A person who has been an office bearer of a political party, dissolved under sub-section 2 of 6 or who has been convicted under section 7, shall be disqualified (a) from member of Parliament or a Provincial Assembly and (b) from being elected or chosen as a member of Parliament or a Provincial Assembly for a period of five years from the date of such dissolution or conviction, as the case may be."^{xxx}

Zulfiqar Ali Bhutto used these rules to target his opponents especially NAP and JUI coalition government in Baluchistan, when it came to power after the general election of 1970, NAP had won the second largest number of seats in North-West Frontier Province (now Khyber Pakhtunkhwa), and the largest number of seats in Baluchistan, and had formed a coalition government in both provinces. NAP was banned by Yahya regime for Wali Khan was against the military operation and was in favour of Mujib to become the Prime Minister after the election of 1970 and had visited East Pakistan as well, thus he had already invoked the anger of Bhutto, who later lifted the ban on NAP after becoming the PM to won its sympathies and had visited Wali Khan's house in Charsadda but could not get his support. Bhutto then ignored him in the appointment of governors of the two provinces without feeling the need of consultation with him.^{xxxi}

Wali Khan had viewed Sheikh Mujib as the future PM and was in his support against Bhutto from the beginning. But Yahya Khan was against it. Thus Wali Khan and his NAP had become a thorn in the eyes of Bhutto. In February 1973, Bhutto dissolved the coalition government of NAP and JUI in Baluchistan

accusing them of London Conspiracy case. He blamed them to have been working against the solidarity and security of Pakistan. On 23 March 1973, the Federal Security Forces of Bhutto opened fire on the protest at Liaquat Bagh Rawalpindi that was organized by the opposition parties. Several NAP leaders were arrested including Attaullah Mengal, Ghaus Bakhsh Bizenjo and Khar Baksh Marri. Wali Khan was also arrested when he was coming back from Lahore to Peshawar. On February 7, 1975 PPP president of the then NWFP, Hayat Sherpao was killed at Peshawar University, where he was addressing a seminar at the department of history. Bhutto government accused NAP and on February 10, 1975 it was disbanded again and its funds were frozen. A reference was also sent to the Supreme Court in June accusing the party of anti-state activities at the instigation of Afghan government. The government also charged Wali Khan and his colleagues under the Hayatabad Conspiracy Case for the murder of Hayat Sherpao. Bhutto did all this to prepare ground for the banning of NAP through the Supreme Court. NAP had to suffer all this due to using of Political Parties Rules by Bhutto government for its personal objectives. All this came to an end, when General Zia came to power in July 1977 and withdrawn all the cases against NAP and Wali Khan, because he wanted him to be included in his government.^{xxxii}

Zia-ul-Haq and Amendments to the Political Parties Act 1962

On July 5, 1977 General Zia imposed Martial Law after removing Bhutto from power. He banned political parties at once and expressed his intentions to hold general elections within ninety days but did not keep his words and postponed elections time and again. Bhutto was hanged on April 4 1979 after alleging him in the murder of a political opponent. After the execution of Bhutto, Zia made amendments to the Political Parties Act 1962. It was aimed to weaken the PPP and its supporter parties. The new amendment provided that "Any person who was an office-bearer or held executive committee position in a Party that had not registered with or being declared eligible by ECP by 11 October 1979, was to be disqualified for seven years from being elected to the NA or PA." As PPP did not want to be registered under the new rules, so many of its members were disqualified from being part of the coming election.^{xxxiii}

In September 1979, Zia held local body elections purely on non-party basis to reduce the influence of political parties. Many PPP supporters identified them under another name *Awami Dost* (Friends of the People). Zia was alarmed, when they did well in the election and as a result, he postponed the scheduled elections in November 1979, for National and Provincial Assemblies and imposed complete ban on political parties and political activities. Later, Zia permitted elections in 1985, that too on non-party basis, no candidate was allowed to contest under party symbol, thus the PPP was kept away from coming into power and was considered as defunct. Resultantly, PPP along with several other parties formed an alliance "Movement for the Restoration of Democracy" (MRD), to end Martial Law and restore the constitution of 1973. After the non-party elections in 1985, Zia introduced the eighth amendment in the constitution and through article 58-2b, concentrated enormous powers in his hands including dismissing elected government and assembly. He also used this amendment against his installed Prime Minister Muhammad Khan Junejo on May 29, 1988, when he perceived an independent foreign policy, sidelining the dictations of Zia during the signing of Geneva Accords on Afghanistan. This practice was later repeated against the elected governments of PPP and PML-N after Zia's death on August 17, 1988. This period from 1988 to 1996 is described as "Musical Chair" as popularly elected governments of PPP and PML-N were ousted by the President under pressure from military, using article 58-2b of Zia era.^{xxxiv}

Fourteenth Amendment and Article 63-A, 1997

Nawaz Sharif's PML-N political party came out victorious after the 1997 general elections in Pakistan, winning a two-third majority seats. His government introduced another amendment in the form of article 63-A, in the constitution that provided for the disqualification of legislators convicted of defection or floor crossing in the Parliament. Under this if a member of a parliamentary party changed his/her loyalty with his party, in favour of other party after contesting election under its symbol, the head of that party could issue show cause notice to him/her and if it was not answered the head of that was entitled and had the authority to declare that member as a defected and he could loss his seat in the parliament, after reviewing the case by the ECP and appeal to the court. This article was later amended during the time of Musharraf through 17th amendment in 2003 and then in 2010 through the 18th amendment during the PPP government that had narrowed down specific grounds of defection.^{xxxv}

Political Parties Rules during Musharraf Era 1999-2008

General Pervez Musharraf captured the throne after ousting the elected government of Nawaz Sharif on October 12, 1999. He termed it essential to revise and re-enact the rules concerning political parties and issued another order to control them. It was named as Political Parties Order 2002 and was extended to the whole of Pakistan and was implemented at once. The political party was re-defined as "An Association of citizens or a combination or groups of such associations formed with a view to propagating or influencing political opinion and participating in elections for any elective public office or for membership of a legislative body."^{xxxvi} The order also clarified the method of formation of a political party and cleared that "Subject to the provisions of this order, it shall be lawful for anybody of individuals or association of citizens to form, organize, continue or set up a political party. A political party shall have a distinct identity of its structures at the national, provincial, and local levels, wherever applicable. Every political party shall have a distinct name and shall not propagate any opinion or act in a manner prejudicial to the fundamental principles of the constitution of the Islamic Republic of Pakistan; or undermine the sovereignty or integrity of Pakistan, its public order, morality or indulging in terrorism or promoting sectarianism, regionalism or provincialism or bear a name after a militant group or assign titles to its leaders and office-bearers connoting armed groups; or imparting martial training to its members or other persons; or be organized as a foreign aided political party".^{xxxvii}

The order further added that, Every political party new or already formed shall have its constitution, with whatever name it may be referred including: its aims and objectives, organizational structure at Federal, Provincial and Local levels, membership criteria including membership fee to be paid by the members, qualification and tenure for office bearers, criteria for collection of funds for the party, procedure for election of party leaders at all levels, selection or nomination of party leaders for legislative bodies, procedure of suspension and expulsion of members and the method of disputes resolution within the party, provision of a copy of its constitution to the Election Commission of Pakistan and provision of an updated record to the ECP, if a party changed its constitution.^{xxxviii}

It permitted every citizen to form or become a member of a political party, or take part in political activities, except the government servants. It also provided that "A person shall not be appointed or serve as an office bearer of a party, if he is not qualified to be or is disqualified from being elected or chosen as a member of the Majlis-e-Shoora under article 63 of the constitution of 1973." It further clarified that the provision of a Bachelor Degree for members of Parliament or Provincial Assembly shall

not be applicable to for an office bearer of a political party.” The political parties were made bound to issue membership cards to their members and membership of only one party at a time was allowed. The members of political parties could have access to the party record according to this order.^{xxxix}

The members of the parties were to pay a membership fee in accordance with the party constitution or make voluntary contribution to it and the parties had to record such type of funds and fees. The parties were prohibited to receive funds from any foreign governments or domestic public private companies or firms, but could receive funds from individuals only. Any prohibited donations and funds were to be confiscated in favour of the state. The suspension and expulsion method of party members was to be provided in the constitution of a political party, provided that, “before making any order for suspension or expulsion of a member from the party, such member shall be provided with a reasonable opportunity to show cause against the action proposed and of hearing.”^{xl}

The political parties were to make selection of candidates for Provincial Assemblies and Parliament through transparent and democratic process. It was mandatory for an elected public office holder, not to hold any party office and if anyone, holding such an office at the time of his appointment to public office, he was to relinquish it before joining the public office. These public offices included: President of Pakistan, Prime Minister, Governor, Chief Minister, Chairman Senate, Speaker, Deputy Speaker, Federal Minister, Minister of State, Provincial Minister, Advisor, Special Assistant to PM or Chief Minister or holder of any other public office as may be initiated by the government.^{xli}

For proper functioning of political parties, they were required to have an elected council at all levels including Federal, Provincial and Local. Parties were to convene a general meeting at all levels, once in a year and to invite delegates or any member of the party as they may think proper to do so. The members could also nominate other members to take part in such meetings in their place and cast vote in such a party meeting. The party leaders were to be elected periodically in accordance with the party constitution at all levels through secret ballot system in a transparent manner. Such election was to take place every four years and all members could contest the election for any office within the party. The general council of the party was to be elected by the members of the party at all level, they were to act as Electoral College at their respective levels; Federal, Provincial or local as the case may be. The party leader was required to present an intra-party election completion certificate to the ECP, signed by him to confirm that elections were held in accordance with the constitution of the party. The certificate was to have a date of election, names of all the elected office bearers at all levels, results of the elections, including votes secured by each elected candidate and declaration of the election results, so that the ECP may publish all the record properly.^{xlii}

The order made bound every political party to submit to ECP the statements of accounts at the close of every financial year within sixty days, that must include; annual income and expenditures, sources of its funds, assets and liabilities along with a certificate signed by the party leader confirming that no funds from any prohibited source were received and that the statement was accurate. The parties were allowed to get election symbols for contesting the elections of Parliament and Provincial Assembly on submission of certificates and funds details as referred to articles 12 and 13 of the constitution. Those parties not following the provisions of article 12 and 13 were not entitled to obtain election symbol from the ECP.^{xliii}

The order also enumerated the provision of dissolution of a political party, if it was found receiving funds from foreign country, acting against the integrity and sovereignty of the state and or indulging in any other activity against the state. The matter of such nature was to be referred to the Supreme Court for final decision and if the SC decision was against that party, it would stand dissolved. If such a party was dissolved all its elected members to the Parliament and Provincial Assemblies were to be disqualified for the remaining term under article 15, such disqualified members were not to take part in any election till the expiry of four years counted from the date of disqualification. The order was to be published in official Gazette.^{xliv}

Any political party that was willing to take part in the elections of 2002, was required to complete internal elections in accordance with the party constitution before August 5, 2002 and submit a certificate accordingly to the ECP. A political party which completed the election before the promulgation of this order was to submit a certificate to ECP in accordance with article 12. The parties failed to do so were to be kept away from elections 2002. The ECP in consultation with the political parties was to make a code of conduct for the political parties and make rules for the purpose of this order with the approval of the President. The order repealed the Political Parties Act 1962, (III of 1962).^{xlv}

18th Amendment and the Parties' Rules

In April 2010, the coalition government of Pakistan Peoples' Party led by Yusuf Raza Gilani and Asif Ali Zardari as Prime Minister and President respectively, brought another constitutional amendment in the constitution, called the 18th constitutional amendment the changed the political system of Pakistan from presidential to pure parliamentary again by abolishing the provision of article 58-2b, that had authorized the president to dissolve the parliament on his own initiative. It transferred the 47 powers in the concurrent list to the provinces and ensured maximum provincial autonomy and released the judiciary from executive influence to some extent, although critics termed it as insufficient for freedom of judiciary from executive control.^{xlvi}

The amendment changed some rules regarding political parties. It abolished the clause (4) of article 17 of the constitution of 1973. It was introduced during the regime of General Muhammad Zia-ul-Haq in 1985 according to this amendment, it was mandatory for every political party to arrange intra-party election and submit its report to the ECP for registration. This clause had empowered the government to invoke technical grounds for the disqualification of a political party, but some politicians objected to it fearing the dynastic leadership and endangering internal accountability. Although, this amendment led to provincial autonomy but left the parties free to arrange intra-party elections in accordance with their own constitution, giving them freedom from ECP to some extent. Therefore, Raza Rabbani chairman of the Parliamentary Committee defended it in the Senate and rejected the objections of the opposition by saying that the amendment was deeply discussed in the committee meetings.^{xlvii}

The Elections Act of 2017

The most important law regarding political parties was the Election Act-2017. This law grouped together into a single code, the former laws including the bridging of constituencies or its delimitations, electoral rolls and the conduct of general elections. It defined a political party in clause 28 of Section 2, as "An association of citizens or a combination of such associations, formed with the aim of shaping political opinion and taking part in elections for public office or membership of a legislative body, including an Assembly, the Senate or a local government. Rules concerning political parties are mentioned in Chapter

XI of the Act, ranging from Section 200 to 2013. According to Section 200, the formation of a political party needed a distinct identity for its structure at all levels. Section 2002 dealt with registration of a party and stated that the application must be signed by the party leader applying for registration. The name of the party must be clear and not similar to any other party. It further elaborated that the party must have minimum two thousand registered members with valid CNIC and must pay two thousand rupees as registration fee, with a copy of its constitution and a claim of holding intra party elections and not receiving foreign funds.^{xlvi}

Section 203 of the Act deals with the right of every Pakistani citizen, not a government servant to form or join an already formed political party and to participate in the political activities of the state, subject to (article 63)^{xli} of the constitution. Section 206 deals with the selection of elective offices through democratic process, Section 207 deals with functioning of political parties, requiring councils at all levels, Section 208 is about the intra party elections to be conducted through fair means every five years, Section 209 deals with the certification of elections to be presented to ECP by the party head after the intra party election, Section 2010 and 2011 is about the sources of funds of political parties and finance campaign to be submitted to ECP, Section 212 and 2013 is to deal with the dissolution of a political party, if found working against the integrity or interests of the state. Under this section, the federal government can dissolve a political party by publishing it in the official Gazette. Such decision must then be forwarded to the Supreme Court for final decision. The Act also recommended strong financial transparency for the political parties and made them bound to submit an audit statement annually to the ECP. It also increased the powers of the ECP to deal with political parties and arrange free and impartial elections in the country.ⁱ

The Intra- Party Election and Symbol Controversy of Pakistan Tehreek-e-Insaf 2023-2024.

The most recent development came to the front, when the ECP declared on December 22, 2023, that the Pakistan Tehreek-e-Insaf, the political party of former Prime Minister Imran Khan was not eligible to keep its election symbol “The Cricket Bat” for its failure to submit a certificate to the ECP within seven days of the intra-party election, thereby violating section 209 of the Election Act 2017. The intra-party elections of PTI were earlier conducted on December 2, 2023 and one of its dissident member had accused the election to have not been conducted in a transparent manner. The decision was challenged by PTI in Peshawar High Court that decided in its favour, terming the decision of ECP as null and void. The ECP appealed to the Supreme Court against the verdict of Peshawar High Court. On January 13, 2024 a three member bench led by Chief Justice Qazi Faez Esa decided against the decision of Peshawar High Court and restored the order of ECP accusing the PTI for not having submitted sufficient evidence on intra-party election.ⁱⁱ

The result of this decision was sever, PTI fielded their candidates as independent to contest the elections of 2024 and each candidate was allotted a different symbol making the election process more complicated for PTI. The aim was to keep the party away from Parliament and Provincial Assemblies. This ruling was highly criticized by Human Rights Organizations, including the Human Rights Commission of Pakistan and warned that it will destabilize the democracy in the country. Despite the fact that PTI was deprived of its electoral symbol, it performed well in the election of 2024 winning more seats than any other party, but as they were independent, they were unable to form a government or demand

reserved seats. Eventually, it joined a small party the Sunni Ittehad Council; a registered party, for the purpose of gaining share in the reserved seats.^{lii}

The reserved seats case was ruled by Peshawar High Court and debarred the party from sharing reserved seats on the pretext that the Sunni Ittehad Council (SIC) had not taken part in the election and did not submit a list of candidates to the ECP before the election, thereby strengthened the ruling coalition of PPP and PML-N. The SIC challenged the verdict in the Supreme Court. The court decided in favour of SIC and PTI and directed the ECP to accept list of candidates for allocation of reserved seats to PTI. In October 2024, after the passage of 26th amendment, a review petition was heard by a Constitutional Bench of the Supreme Court that was different from the bench that had earlier decided the matter. The bench was presided by Justice Aminuddin Khan, who was not in favour of the original decision of the court regarding the reserved seats. The Bench reversed the earlier decision of the court and denied the right of sharing reserved seats to PTI and SIC.^{liii}

The Twenty-Sixth Constitutional Amendment 2024

The 26th constitutional amendment was made overnight on October 21, 2024, with two third majority; receiving sixty five votes in the Senate and two hundred and twenty five votes in the National Assembly. Although it is not directly related to political parties but their disputes resolutions in accordance with its provisions is of prime importance. It also removed the Suo Moto powers of the Supreme Court and also changed the method of appointing the Chief Justice of the apex court through a special parliamentary committee consisting of twelve members taken from Senate and National Assembly in proportion to party strength, empowered to nominate the Chief Justice from three most senior judges of the Supreme Court, thereby depriving the judiciary of its free will and subordinating it to the executive. Thus the decision of the cases involving political parties and elections were brought under the influence of the executive and establishment. The case of reserved seats decided against PTI, by Justice Aminuddin, who headed the seven member constitutional bench was the first direct result against a political party. Many circles including the International Commission of Jurists also condemned this move on the part of the government.^{liv}

Impacts of Political Parties Rules on the Political System of Pakistan

The laws relating political parties in Pakistan have a deep and mixed influence on the Political System of the country. On one side it gave a structure, rules and code of conduct for the political parties to exist but on the other side it gave the opportunity to the ruling parties to suppress its opponents as the Political Parties Act of 1962 had given sweeping powers to the military dictator Ayub Khan to control the parties after they were allowed to work and gave him the opportunity to form his own party to control the government. In 1979 Zia also amended it to bring the parties under the control of his military regime. Similarly, General Pervez Musharraf further adopted the same pattern and introduced Political Parties Order 2002, it added some other rules relating to political parties but the aim was to curb the PML-N and PPP. The PPP and PML-N were deprived of their election symbols that led to the victory of PML-Q in the election of 2002. Pervez Musharraf had formed PML-Q from the forcefully deserted members of PPP and PML-N before the election.^{lv}

It gave the government power to hold strict control on the parties, restricting the democratic norms but no political has been dismissed yet, rather different governments have used Anti-Terrorism Act 1997, to hold control on the parties. These rules have also increased the powers of ECP tremendously that

enabled it to decide on the reserved seats case of PTI and deprived it of its sharing. The ECP can also fine parties for not meeting the criteria of these rules and the funds of the parties are also under its strict control. Political Parties are called the spirit of democracy and presents the grievances of the people to the government but when such a long list of restrictions are imposed on them, it will definitely affect the democracy in a country and thus country may not be ruled according to the wishes of the people, because the parties will not be in a position to implement their programs in a free and fair environment.^{lvi}

Conclusion

This article has carefully analyzed the rules and regulations introduced in Pakistan since the imposition of the Act of 1962, covering four rules; the Political Parties Act 1962, Political Parties Order 2002, the Election Act of 2017 and the Twenty Sixth Amendment of 2024. This shows that Pakistan has recognized the right of the citizens to make or be part of an already established party through these rules but at the same time, it is accompanied by restraints and censorships on the part of the governments; military or civilian to disqualify the office holders and leaders of the party, working against the interests of the state or personally obnoxious to the ruling party. General Muhammad Ayub Khan through Political Parties Act 1962, General Musharraf through Political Parties Order 2002, the civilian government through the Election Act 2017 and through the constitutional amendment of 2024, successfully tried to curb their opponents and keep them away from national politics. It brought the country on the verge of politics of revenge and is still used today by the government and opposition against each other, when they come to power alternately. It has also empowered the Election Commission of Pakistan to act like autocratically against the political parties. The parties have been debarred from their free will and cannot operate freely. Most of these rules have been imposed during military dictatorships and has also given them an opportunity to taste political power by forming their own parties and play a role of king makers in the country. Resultantly, Pakistan has faced political victimization and the politics of revenge in terms of political parties' rules and regulations and has weakened the democratic system in country.

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Town Committees for urban areas consisting of elected and nominated members. Then there were Tehsil Councils in West Pakistan and Thana Councils in East Pakistan that coordinated the work of Union Councils. At District Level, there were District Councils consisting of both elected and nominated members and was the most powerful tier, responsible for public works, health, education and taxation. After that there were Divisional Councils that supervised districts. There were also Provincial Development Advisory Councils for both wings but that was abolished after the installation of Provincial Assemblies in both wings. Total number of BDs was eighty thousand but later it was increased to one lakh and twenty thousand. In the presidential election of 1965, these BDs were easily influenced to elect Ayub Khan as the President against Fatima Jinnah.

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