



## Authoritarian Regime of Zia-ul-Haq and its Consequences for Federalism in Pakistan

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### Abstract

*Whenever authoritarian regimes control the federal democracies these caused the unrepeatable damage to the existing political system. Pakistan is one of major example of this phenomenon. Ayub Khan led martial law laid the foundation of disintegration of political process and federalism of the state that was completed during the martial law of Yehya Khan. Zulfiqar Ali Bhutto led the federation of Pakistan towards the democratic path by giving a constitution with bicameralism for the first time in Pakistan but Zia ul Haq's Martial Law once again deteriorated the parliamentary democracy and indulged the state into a proxy war against Russia in favor of America. Zia's Martial Law destroyed the democratic norms of the country that resulted in the weak political system and fragile democracy during the 1990s. Benazir Bhutto and Nawaz Sharif both enjoyed two terms of premiership of Pakistan but federalism was never strengthened. Political system remained under the constant threat of*

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*58(2B). Political confrontation, attack on the judiciary and water issues among the provinces was the manifestation of authoritarian regimes of the past. Politics of power sharing was also adopted but stability of the system was never achieved during this era.*

**Key Words** Authoritarianism, Democracy, Federalism, Terrorism, Taliban, Norms

## **Introduction**

Political system of a state has to face the consequences of dictatorship in the form of the authoritarian policies and autocratic behavior of the office holders even after the end of the dictators rule. Parliamentary democracy in Pakistan has to face Martial Laws for four times and each Martial Law left behind problems for the democracy and federalism in Pakistan .Pakistan fought tow wars against India during the Martial Law of Ayub Khan(1965) and Yehya Khan regimes(1971) Zia ul Haq enforced Martial Law in Pakistan in 1977 and during his period Pakistan was indulged in Afghan war against Russia that caused heavy economic and human loss. In 1999 fourth Martial Law was implemented in the state by Pervaiz Musharraf and once again Pakistan was facing American led war against terrorism in Afghanistan that caused 70 thousand deaths and billions dollars economic loss in Pakistan. Each time when ever Martial Law was enforced federal system came under enormous pressure.

Ayub's Martial Law paved the way for another Martial Law in the form of Yehya Khan's rule in 1969 that destroyed the democratic and federal norms of the state and on December 16,1971 federalism of Pakistan was disintegrated through the Indian imposed war. Zulfikar Ali Bhutto took the reins of the state and introduced principles of federal parliamentary democracy in Pakistan.

## **Zia's Rule**

When new phase of military rule started under Zia-ul-Haq, the federalism came under enormous stress due to unconstitutional measures adopted by illegitimate government. A Written constitution is very necessary for the smooth working of the federalism. Prospects for federalism are dimmed in its absence. After seizing power, Zia-ul-Haq suspended the constitution which remained in abeyance for next 8 years. Authority to govern the state from 1977 to 1985 was purely in the hands of military bureaucracy which changed federal structure into unitary style .In contrary to Ayub and Yehya Khan Zia-ul- Haq did not abrogated the constitution to escape from the punishment of High Treason Act which is laid down in Article 6 of the constitution. Zia-ulHaq promised to

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the nation for the restoration of democracy and to hold elections within 90 days but delayed for eight years. With Chief Martial Law administrator, on September 16, 1978 he assumed office of the president when Ch. FazalIahi left the office. Begum Nusrat Bhutto filed a petition in Supreme Court of Pakistan against the implementation of Martial Law which was rejected by the court on the basis of Doctrine of Necessity. Political parties which play the role of gatekeepers in a federal state were abandoned on October 16, 1979 and their accounts were frozen. Military government opted the policy of decentralization by conducting local body's election in 1979 and 1983 (Ali Shan Shah, 2016).

He also called off the military action in Balochistan and granted general amnesty to Baloch leaders. Zia tried to legitimize his rule through referendum which was held in 1984 in which he was elected as President. After referendum elections for National and provincial assemblies were conducted in 1985 on non party basis and president appointed Muhammad Khan Jonejo as Prime Minister of Pakistan. Zia wanted to give protection to Martial Law orders and ordinances, for this purpose he asked the new parliament to pass a new constitutional bill, when this was done by the puppet administration of the country, it totally changed the balance of power from Prime Minister to the president. Zia described it as an act of sharing of powers between the two institutions and lifted martial law. (Ahmad M. , Politics of Crises, 1987)

On March 2, 1985 Zia introduced an ordinance which was known as the Revival of Constitution 1973 Order which brought about changes in the constitutional structure of the state. It was passed by the legislature in November 1985 and known as the 8th amendment to the constitution of 1973. This was the major amendment which was produced to cover the presidential orders issued between 1977 to 1985. (Ali, 1996). After the amendment, two third majorities from the Senate is also necessary to pass the bill and now it can be initiated in any house of the parliament. Condition of two third majorities from the Senate enhanced the roll of small provinces in legislation. (Khan, 2009)

It also created disparity between the president and the prime minister and gave imbalanced federalism in the state as the later institution was considered to be the representative of the public under the parliamentary democracy in the federal legislature and the former enjoyed only a ceremonial status. (Mahmood, 2000) The reflection of 8th amendment badly affected the working capability of Prime Minister of Pakistan. He lost his estimation as an institution and freedom of thought and action. Now he became only a councilor to the president that affected his dignity and spirit of democracy for which former Prime Minister Benazir Bhutto wrote.



“Zia-ul-Haq incalculably weakened the democracy in the state. He left behind not only democratic process distorted by the 8th amendment which enabled his successors to dismiss the elected prime ministers with impunity”(Ahmad R. , 2010) The sword of 58(2)b threatened the democratic transition in establishing the federalism and equilibrium of the two institutions which also exerted pressure on other government institutions. In the following years the presidency continuously gave illegitimate and unharmonious attitude to parliament. Even President Farooq Leghari (late) a veteran leader from Pakistan People’s Party after he became President, axed his own party’s government and dismantled the political atmosphere by Zia-ul-Haq and Ishaq Khan.(Mahmood, 2000)

It was not helpful to good management but to consider excellent position of office-bearer as Hamid Yusuf propounded: “the centre of decision making was shifted from the cabinet itself that dominated by prime ministers. There were large number of advisers and special assistances and the pattern of government was also personalized” (Yousaf, 1999). They also dismantled the five elected governments in the middle of their terms. The democratic rule during that very short term had been marked by a rapid succession of governments which appeared only bewildering to an observer of the political affairs and it seemed to Hamid Yusuf; “the body politics had been attempting to build a viable democratic order on shifting sand in politics”.(Yousaf, 1999)

At the federal level Zia-ul-Haq held the 1973 constitution in abeyance and manipulated some of its Articles. He nominated a consulted body named Majlis-i-Shura in 1981 under President’s Order and also enforced Provisional Constitution Order with 138 Articles which was to serve as the Constitution of Pakistan for years to come.

Karachi and Peshawar became the dens of lawlessness. He was failed in coinciding the consensus building amongst the regional leaders and left the state into turbulent and strife with sectarianism and ethnic rifts in the following years. The variations continued in the following years. General Zia during his eleven years rule, intestinally tried to change the basic democratic structure of the society with his own brand of islamization (Ali,G,Ansari,M,, 2020).

### **Re-Birth of Democratic Federalism 1988-99**

Democratic history that was obstructed in Pakistan, once again started when Zia ul Haq was died in 1988 in an air crash near Bahawalpur at Basti Lal Kamal. The bureaucratic structure did not want to lose its importance and announced to hold new elections on non party basis in the state. The decision was against the sentiments of masses and political leadership. People of Pakistan wanted to continue democratic process with all its

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essentials, so the political leadership of the state decided to moved to the apex court of Pakistan for the provision of the basic rights to them given by the constitution of 1973 under the Article 17(2).

The powers of the president and the provincial governors relating to administrative, financial and political affairs was taken from them and were granted to prime minister and the chief ministers of the provinces..(Talbot, 1998).

### **Federalism and Political Confrontation**

In the era from 1988 to 1999 Benzir Bhutto and Nawaz Sharief remained in the office of Prime Minister of Pakistan for two turns each but did not pay any attention to produce parliamentary norms, democratic values, administrative efficacy and good governance in the state (Ashfaq U.Rehman, Arif Khan and Bakhtiar Khan, July 2017).. Both PML-N and PPP did not bear even the positive moves of the other party's government that was started for the welfare of the masses and for the betterment of the federalism just to appease their ego. This attitude proves a hurdle for the development and welfare of the people and endangered the federalism in the state.(Rizvi A. , 2003). Horse trading during the era of 1990s became the best way to tease the ruling party and both parties did not learnt a lesson from their past. The result was that issues of national importance remained unresolved. The undemocratic traditions that were started by the dictator Zia ul Haq ruined the federal norms and the political leaders worked just for their self satisfaction negating the federal issues of the state. (Azeem, June 2018)

### **Coalition Governments in Parliamentary Politics**

Power sharing among the different political, regional and ethnic groups is necessary for the harmony in the federalism. This was also exercised during 1990s in the form of alliance that was created for government making.

This condition of political instability created a vacume and in 1999 General Prevaiz Musharraf promulgated Martial Law in the state by dissolving Nawaz Sharif government. Federalism in Pakistan once again came under the military rule (Mahmood, 2000).

### **Fiscal Distribution under the Political Governments**

Every system of government needs finance to run the governmental affairs. Besides the economic resources sharing of direct finance is required between the central government and federating units. In federations allocations of finance is made according

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to a decided and written document. Every federation maintained an institution in which with the mutual consultation of central government and the provinces, sharing of finance is decided. In Pakistan this task is assigned to the National Finance Commission (NFC) that was constituted under the constitution of 1973. Some items that were included in non divisible pool earlier like the excise duty on tobacco and sugar were included in divisible pool. Under the fourth NFC award the divisible pool was comprised on many duties and taxes like sales tax, excise duty, income tax and export duty. But the custom duty was not included in the divisible pool (Ahmad R. , 2010). Although the provinces were demanding for resource sharing formula but finance commission was unable to produce consciences on it and still the population remained the base for sharing the finance. Centre and federating units were given the divisible pool with the ratio of 20:80. The census of 1981 was made the base for determining the population. Special grants were given to the provinces to meet their developmental requirements. Under the NFC Award of 1991 the share of Balochistan from the divisible pool was fixed at 5.30 percent, KPK was provided 13.54 percent, Sindh was given 23.28 percent and Punjab received 57.88 percent. (Nasir, 2007)

Provinces were advised to generate funds from their own resources too. But they were not provided the desired autonomy and capacity building measures for generating the resources (Ghulam Ali, Muhammad Javaid, 2020).

In this Award too, the population was the basic for sharing the finance. This Award was a copy of the previous Award in most of share distribution. Provinces were given the Incentive of limited matching grant formula. If any province crossed the revenue growth target of 14.2 per cent it would be provided matching grants (Nasir, 2007). According to this formula Balochistan and KPK got 1000 million while Sindh and Punjab received 500 millions.

### **Resolving the Issue of Water Distribution**

Equal and just sharing of resources according to the needs and rights of the federating units keep the federalism intact and strong. In 1990s water was the source of constant conflict among the provinces of Pakistan. Nawaz Sharif wanted its solution so he arranged a sitting in Karachi of the representatives of all the constituent units and their chief ministers to settle the issue.

### **Parliamentary Democracy and the Action against Judiciary**

Federalism requires a strong political system of governance for its working where institutions can perform their working independently without feeling any pressure from

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the ruling elites. Judiciary is vital organ of the state and necessary for the interpretation of laws and to remove anomalies in the constitutional clauses. The history of parliamentary democracy in Pakistan during 1990s indicates that the performance of the political governments during these years was not satisfactory. The main reason for this was the 8<sup>th</sup> amendment that changed the whole federal set up and political culture of the state. Rebirth of parliamentary democracy was started in Pakistan in 1988 and that period lasted till 1999. Purification of the constitution was done during Nawaz Sharief regime when parliament amended it and the work of restoration was performed. The constitution was restored in its actual position but a balance between the powers of president and prime minister was maintained (Khan, 2009). In the period of 1990's whenever a central or provincial government was dissolved by the president the respective government went to the judiciary for deciding the matter. In 1990 when the first democratic government of Benazir Bhutto dismissed, PPP knocked at the doors of the Supreme Court of Pakistan. This was obvious in the case of dismissal of Nawaz Sharief's government when Supreme Judiciary restored the Sharief's government and gave a judgment against the previous two decisions that were given in Jonejo and Benazir Bhutto's cases. This was a historical decision that was given according to the constitutional supremacy and not according to the wishes of greedy politicians or opportunist president (Rizvi A. , 2003)

The unconstitutional behavior of the judges of higher courts was the result of the politicization of judiciary. Every party that came into power appointed judges on personal liking and disliking and did not care for the judicial norms. Many persons who were appointed as Judge of Supreme Court and High Court was not possess the required capability but their political affiliation helped them to be appointed at this prestigious post. In 1995 some judges were appointed just for the manipulation of judiciary and at this the sitting Chief Justice had to express his displeasure. The chief justice gave a judgment that separation of judicial organ of the state from the executive is necessary and federal government should take steps for its independence. Finally some measures were adopted and Legal Reforms Ordinance was enforced that turned into an Act of Parliament. But this Act was promulgated only for the lower courts of district level and its sphere was not extended to High Courts and Supreme Court. The antagonistic conflict between the executive and judiciary remained in progress in the coming days too. (Khan, 2009)

## **Conclusion**

Dictatorships have always harmed the political unity and system stability of the state. Unfortunately Pakistan has to face martial laws from its very beginning that deteriorated the federal and democratic norms in the state. The constitutional and political changes

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that were introduced during Martial Law of Zia ul Haq exerted very adverse effects on Pakistan's political system .Political culture of the state was manipulated and after the death of Zia ul Haq the new government of 1990s have to face the consequences of the martial law regime. Coalition governments were formed in the country that created constant unrest in the state. Although some positive steps were taken during the Nawaz Sharif 2<sup>nd</sup> term of prime minister ship but at the same time he adopted the confrontation policy with the judiciary and military bureaucracy that resulted in another martial law in the country.



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