

**COLLABORATION AND NON COLLABORATION:  
THE ROLE OF OPPOSITION IN THE NATIONAL  
ASSEMBLY OF PAKISTAN (1988-1999):  
A HISTORICAL ANALYSIS**



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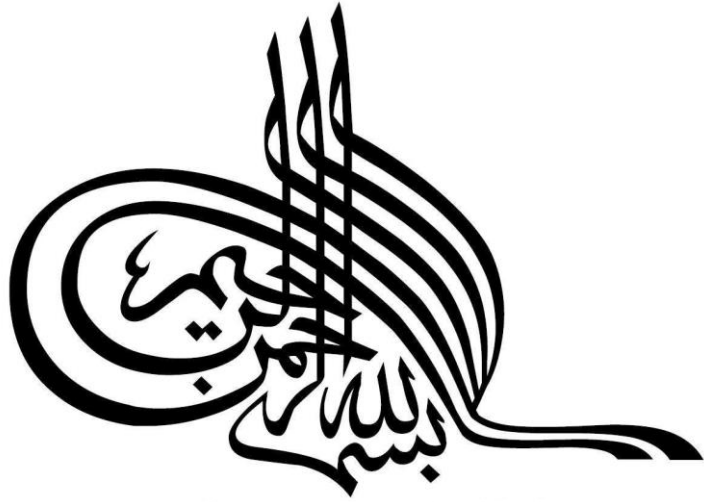
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**DEPARTMENT OF HISTORY & PAKISTAN STUDIES  
FACULTY OF SOCIAL SCIENCES  
INTERNATIONAL ISLAMIC UNIVERSITY  
ISLAMABAD**

**2019**



*In the name of Allah,  
the Most Beneficent,  
the Most Merciful*

**DEDICATED**

**To**

**My Worthy Parents**

## **DECLARATION**

I, MUHAMMAD ALTAF, hereby declare that this dissertation has been written by me in its entirety on the basis of my research work under the sincere & heartfelt guidance of my supervisor- Assistant Professor ABDUL ZAHOOR KHAN (Doctor of Philosophy) at the Department of History & Pakistan Studies-Faculty of Social Sciences, International Islamic University Islamabad. No portion of this Dissertation has been copied from any source. No portion of the research, presented in this Dissertation, has been submitted before for any degree or qualification in this or any other university or educational institution.

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## **FORWARDING SHEET**

The Dissertation; titled “COLLABORATION AND NON COLLABORATION: THE ROLE OF OPPOSITION IN THE NATIONAL ASSEMBLY OF PAKISTAN (1988-1999): A HISTORICAL ANALYSIS” put forward by MR. MUHAMMAD ALTAF, Regd. No. 7-FSS/PHDHIS/S-12 in partial fulfillment for the award of the Degree of *Doctor of Philosophy (PhD)* in History, has been successfully completed under my guidance, care and supervision.

I am satisfied with the excellence of scholar’s research work and he is now allowed to get this Dissertation submitted for the finishing point of go forward course of action so that he may be awarded the Degree of Doctor of Philosophy (Ph.D) in History as per modus operandi of International Islamic University, Islamabad.

**ASSISTANT PROFESSOR ABDUL ZAHOOR KHAN**  
(Doctor of Philosophy)  
**Research Supervisor**



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## ABSTRACT

*The intention and purpose of this research is to understand the collaboration and non-collaboration of the opposition political parties with the government in the national assembly of Pakistan during 1988-1999. This study is not intended to examine the position of opposition on all issues debated in the National Assembly of Pakistan during the post General Zia democratic period. It is rather modest in its scope. Specifically, it seeks to focus on political, social and economic issues.*

*This study seeks to analyze the role of opposition in the National Assembly from both empirical and theoretical standpoints. In spite of a vibrant role of the opposition in the National Assembly during this period, the available scholarly literature has largely ignored this subject. The fact that a vibrant opposition opposed and supported the incumbent government's various policies and decisions in this period makes the role of opposition a legitimate subject for a detailed and systematic study.*

*This study draws on the theory of parliamentary democracy which is rooted in the practices and traditions of the British Parliament. In addition, it also draws on the Islamic ideology to understand the collaboration between the opposition and government. The theory of parliamentary democracy alone cannot explain the role of opposition in the National Assembly of Pakistan. The opposition cannot agitate any issue in the National Assembly. The Islamic ideology places certain limits on both the opposition and government so far the legislative and decision making process is concerned.*

*Although one can see both collaboration and non-collaboration of opposition with the incumbent government from 1947 to 1988, the non-collaboration trend was dominant in this period. The historical trend of collaboration and non-collaboration also prevailed in the period from 1988 to 1999. In a democratic system, the opposition has its own policies and programs and is expected to achieve them through legislation and policy decision. Both the government and the opposition are expected to strengthen democratic norms through their democratic behavior in the parliament.*

*The role of opposition and the government during 1988-1999 was not supportive of democratic norms. The government did not engage opposition parties in the National Assembly in any meaningful manner. It paid little attention to the legislation. On the other hand, instead of relying on democratic means such as in-house change or strengthening of the parliament, the opposition sought to enlist the support of non-democratic elements to oust the incumbent government and weaken the democratic norms. The dominant trend in this period was that of non-collaboration.*

*In both tenures of the Benazir government and likewise the Nawaz government, the government mostly neglected the opposition and registered criminal cases against opposition leaders whereas the opposition entered into alliance with non-democratic forces such as military to oust the incumbent government. This trend hardly helped democracy in the country. Instead of focusing on legislation in the parliament, the government sought to weaken the opposition through coercive means such as registration of criminal cases and putting them in jail. Instead of using the Parliament to achieve its objectives, the opposition, on the other hand, sought to make alliances with non-democratic forces such as military, to deal with the government---a situation which did not strengthen democratic system during this period.*

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**MUHAMMAD ALTAF**

## ABBREVIATIONS

AIML	All-India Muslim League
AML	Awami Muslim League
APDM	All Parties Democratic Movement
APP	Azad Pakistan Party
ANF	Anti-Narcotics Force
ANP	Awami National Party
ASF	Airport Security Force
BBC	British Broadcasting Corporation
BCCI	Bank of Credit and Commerce International
BD	Basic Democracies
BNA	Baluchistan National Alliance
BNP	Baluchistan National Party
BPC	Basic Principles Committee
BJP	Bhartia Janta Party
CDA	Capital Development Authority
CENTO	Central Treaty Organization
CII	Council of Islamic Ideology
C.M	Chief Minister
Con.M	Convention Muslim League
SCND	Security Council for National Defense
COAS	Chief of the Army Staff
COP	Combined Opposition Party
CTBT	Comprehensive Test-Ban Treaty
DAC	Democratic Action Committee
DSP	Deputy Superintendent of Police
EBDO	Elective Bodies Disqualification Ordinance
FATA	Federally Administered Tribal Areas
FC	Frontier Constabulary
FCR	Frontier Crime Regulations
FIR	First Information Report
FPSC	Federal Public Service Commission
GD	Ganatantri Dal



GDP	Gross Domestic Product
IJI	Islami Jamhoori Ittehad
IJM	Islami Jamhoori Mahaz
IMF	International Monetary Fund
ISI	Inter-Services Intelligence
ILO	International Labour Organization
JI	Jama'at-i-Islami
JUI	Jam'iyat-i-Ulama-i-Islam
JUP (N)	Jam'iyat 'Ulama-i-Pakistan (Noorani)
JWP	Jahmoori Watan Party
KSA	Kingdom of Saudi Arabia
KSP	Krishak Saramik Party
LFO	Legal Frame Work Order
MCB	Muslim Commercial Bank
MDM	Muttahida Deeni Mahaz
MNA	Member National Assembly
MPA	Member Provincial Assembly
MQM	Muttahida Qaumi Movement
MQM (HPG)	Muttahida Qaumi Movement (Haq Parast Group)
MRD	Movement for Restoration of Democracy
NA	National Assembly
NAP	National Awami Party
NDF	National Democratic Front
NFC	National Finance Commission
NPP	National Peoples Party
NSC	National Security Council
NWFP	North-West Frontier Province
OIC	Organization of Islamic Conference
PATA	Provincially Administered Tribal Areas
PBUH	Peace Be Upon Him
PCO	Provisional Constitutional Order
PDA	Pakistan Democratic Alliance
PDM	Pakistan Democratic Movement
PDP	Pakistan Democratic Party
PIF	Pakistan Islamic Front

PKMAP	Pashtunkhwa Milli Awami Party
PM	Prime Minister
PML	Pakistan Muslim League
PML (N)	Pakistan Muslim League (Nawaz)
PMKP	Pakistan Mazdoor Kisan Party
PNA	Pakistan National Alliance
PNC	Pakistan National Congress
PNCB	Pakistan Narcotics Control Board
PPP	Pakistan Peoples Party
PPP (SB)	Pakistan Peoples Party (Shaheed Bhutto)
PRODA	Public and Representative Offices Disqualification Act
PSR	Proportional System of Representation
PTV	Pakistan Television
S.A.W.W.	Sallāllāhu Alayhī Wa' ālihī Wasallam (صَلَّى اللهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ)
SAARC	South Asian Association of Regional Co-operation
SEATO	Southeast Asia Treaty Organization
SHO	Station House Officer
SSC	Secondary School Certificate
SSP	Senior Superintendent of Police
TI	Tehrik-i-Istiqlal
TNFJ	Tehrik-e-Nifaz-e-Fiqh-e-Jafaria
UDF	United Democratic Front
UF	United Front
UIF	United Islamic Front
UK	United Kingdom
UNDP	United Nations Development Programme
UNO	United Nations Organization
US	United States
USSR	Union of Soviet Socialist Republics
WAPDA	Water and Power Development Authority

## GLOSSARY

<i>ahadith</i>	Ḥadīth in Islam refers to what Muslims believe to be a record of the words, actions, and the silent approval of the Last Prophet Muhammad (S.A.W.W.), a narrative record of the sayings or customs of the Last Prophet Muhammad(S.A.W.W.) and his companions, the collective body of traditions relating to Last Prophet Muhammad (S.A.W.W.) and his companions.
<i>aiwan-e-sadar</i>	The Aiwan-e-Sadr or Presidential Palace is the official residence and workplace of the President of Pakistan. The administrative head of Aiwan-e-Sadr is the Principal Secretary to the President of Pakistan.
<i>alim</i>	Religions Scholar educated at religious educational institution, A scholar recognized as an expert in Islamic law and theology. Singular of <i>ulema</i> .
<i>bait-ul-mal</i>	Bait-ul-mal or Bayt al-mal (بيت المال) is an Arabic term that is translated as "House of money" or "House of Wealth." Historically, it was a financial institution responsible for the administration of taxes in Islamic states, particularly in the early Islamic Caliphate.
<i>burhan</i>	The Sacred book of <i>Zikri</i> Sect.
<i>diyāt</i>	Diya (Arabic: دية; plural diyāt, Arabic: ديات) in Islamic law, is the financial compensation paid to the victim or heirs of a victim in the cases of murder, bodily harm or property damage. It is an alternative punishment to qisas (equal retaliation)
<i>ehtesab</i>	Accountability, Answerability, Answerableness : احتساب - ذمه داری : (noun) responsibility to someone or for some activity.
<i>fatwa</i>	A fatwa (Arabic: فتوى; plural fatāwa), is a legal pronouncement in Islam. A mufti (a scholar capable of making judgments on Sharia (Islamic law)) pronounces it. Usually a fatwa is made to clarify a question where "fiqh" (Islamic jurisprudence) is unclear. Usually a judge or other person requests it.
<i>haj</i>	The greater Muslim pilgrimage to Makkah, which takes place in the last month of the year(Dhu al-Hijja) and which all Muslims are expected to make at least once during their lifetime if they can afford to do so. It is one of the Five Pillars of Islam.
<i>hudood</i>	<i>Hudood</i> is an Islamic term referring to punishment which under Islamic laws are mandated and fixed by ALLAH.
<i>ijma</i>	Arabic; “agreeing upon” (consensus). The Universal and infallible agreement of the Muslim Community, especially of Muslims Scholars on any Islamic principle, at any time.
<i>jehaz</i>	The gifts that bride received from her parents at the eve of marriage.
<i>jihad</i>	The war against non-Muslims, generally in defense.
<i>jirga</i>	A Jirga is a traditional assembly of leaders that make decisions by consensus and according to teaching of Pakhtunwali.
<i>kalashnikov</i>	The AK-47, officially known as the Avtomat Kalashnikova, is a gas-operated, 7.62×39mm assault rifle, developed in the Soviet Union by Mikhail Kalashnikov. It is the originating firearm of the Kalashnikov rifle family. 47 refers to the year it was finished. Design work on the AK-47 began in 1945.
<i>kafarazam</i>	The great infidel.

<i>khulafa-i-rashideen</i>	The Four Caliphs were the first four leaders of Islam that succeeded the Last Prophet Muhammad (S.A.W.W.). They also served as Muhammad (S.A.W.W.)'s closest friends and advisors during the early years of Islam. The Rashidun Caliphate. The time period under the leadership of the Four Caliphs is called the Rashidun Caliphate by historians.
<i>kalma</i>	The confession of faith in Islam.
<i>koh</i>	Mountain.
<i>Lok Sabha</i>	The Lok Sabha, or House of the People, is the lower house of India's bicameral Parliament, with the upper house being the Rajya Sabha.
<i>Mawlana</i>	Reverential word used for religious scholar ( <i>alim</i> ).
<i>majlis-e- shoora</i>	The name of the Parliament of Pakistan.
<i>mujhajirs</i>	Is an Arabic word meaning immigrants.
<i>muslim ummah</i>	Muslim is one nation.
<i>namoos-i- rasalat</i>	The respect of all the Messengers of Allah Al Mighty are a part of Islamic belief and disgrace is considered a big crime.
<i>qatal-i-amad</i>	Willful murder
<i>qisas</i>	Qisās is an Islamic term meaning "retaliation in kind", "eye for an eye", or retributive justice. In traditional Islamic law, the doctrine of qisas provides for a punishment analogous to the crime.
<i>qadiyani</i>	The non-Muslim sect that follow Mirza Ghulam Ahmed Qadiyani Teachings.
<i>qazi</i>	Judge
<i>qur'an</i>	The sacred revealed Islamic Book, believed to be the word of God asdictated to Last Prophet Muhammad(S.A.W.W.) by Angel Gabriel and written down in Arabic. The Quran, literally meaning "the recitation" (also romanized Qur'an or Koran) is the central religious text of Islam, which Muslims believe to be a revelation from God (Allah). It is widely regarded as the finest work in classical Arabic literature.
<i>riba</i>	usury.
<i>shari'at</i>	The law of Islam as explained in Quran and Hadith. It is perfect way set by the Prophets of ALLAH for his followers.
<i>sharpassand</i>	Evil minded.
<i>shi'a</i>	The second largest denomination in Islam, Shia Muslims believe that Hazrat Ali is the first caliph of Islam.
<i>sindhodash</i>	Sindhu desh is a concept floated by some Sindhi Nationalists parties in Pakistan for the creation of a Sindh state which would be independent from Pakistan.
<i>sunnah</i>	The way or path of Last Prophet Muhammad (S.A.W.W.).
<i>usher</i>	A 10 Percent of tax on the harvest of irrigated land and 20 Percent tax on harvest of rain watered land.
<i>wali</i>	Benefactor, Guardian.
<i>zakat</i>	Annual religious fixed amount paid by the Muslim on fixed amount of wealth which is 2.5 Percent (this part of the amount is distrusted among the poor Muslims).
<i>zikri</i>	One of the sect that have belief that Muhammad Attock is their Prophet.
<i>zina</i>	Zinā' or zina is an Islamic legal term referring to unlawful sexual intercourse. According to traditional jurisprudence, zina can include adultery, fornication, prostitution, rape, sodomy, homosexuality, incest, and bestiality.

# INTRODUCTION

Democracy is the most popular system of government all over the world. One of the reasons for this widespread popularity, is the system of check and balance that it offers; in the form of opposition. The concept traces its origin to the phrase ‘loyal opposition’ which has been derived from John Cam Hobhouse’s use of the term ‘His Majesty’s Loyal Opposition’ in a debate in the British parliament in 1826.<sup>1</sup> However, this loyalty; is with the ‘sovereign’ and the people, not with the incumbent government. The opposition in a truly democratic system is not necessarily government friendly, rather it is a genuine critic of the incumbent government and its policies while at the same time it is loyal to the state and the democratic system. In addition, it also supports the incumbent government when it deems government policies to be in the national interest. In other words, it is necessary for the functioning of democracy and it can express disagreement with the incumbent government without the fear of being accused of treason. Michael Ignatieff, a former leader of the Loyal Opposition in the Canadian House of Commons, aptly captured the place of opposition in a democratic system in his 2012 address at Stanford University: “The opposition performs an argumentative function critical to democracy itself. As, the Governments have no right to question the loyalty of those who oppose them. Adversaries remain citizens of the same State, common subjects of the same sovereign, and servants of the same law<sup>2</sup>.” In democracy, the opposition is a political group or party that desires to improve the government and its policies and programmes through democratic development and procedures<sup>3</sup>. In a democratic system, the opposition is the government in waiting. In other words, the opposition has its own policies and programmes which it plans to implement when and if it comes into power.

Earlier on, the role of opposition was laughable. For instance, in the words of Tierney, “The duty of an opposition is to propose nothing, oppose everything and to turn out the government.”<sup>4</sup> However, in the contemporary democratic system, the opposition is supposed

to perform diverse functions in order to strengthen the system of governance. Questioning, challenging and proposing alternatives to the governmental policies often demand a combative role to be played by the opposition.

The opposition is responsible for overseeing and scrutinizing the implementation of different programs of the government for the benefit of the society. It checks all the work of the executive through different traditions and developments. For instance, during the question-answer session in the parliament, the opposition members may ask oral and written questions which the executive is obliged to answer.<sup>5</sup>In parliamentary debates, the opposition points out the flaws and weaknesses in the governmental policies. These questions and debates may be related to the conduct of both public and private entities as both can affect the interests of the masses. This way, the opposition exercises an oversight not only on the way the government operates, but also on those societal entities whose conduct can affect the welfare of the people.<sup>6</sup>It means that the opposition maintains strong checks not only on the executive branch of the government but on the societal organizations as well.<sup>7</sup> Such a role can potentially strengthen democratic governance, protect interests of the people, make governance more transparent, and keep the masses in touch and informed about the decisions that affect them.<sup>8</sup>

The role of the opposition in a democratic system is not simply to criticize the conduct of the incumbent government but is also to extend support to the government when its policies and programmes are in the interest of the society. Ideally, the government works for the benefit of the public, and the opposition ensures that the government stays on track. In other words, where the government policies are in fact to the effect of the betterment of the public, the opposition is expected to extend cooperation to the government in power. However, in some instances, the opposition members, as Richard Cobden lamented, would make moving speeches but would not support the admirable policies of the incumbent government.<sup>9</sup>The underlying theoretical assumption is that, in a democratic system, the opposition is expected

to respect the constitution, avoid undue criticism and shun politics of obstruction. In short, the opposition is not only expected to criticize flawed policies and programmes but to also extend cooperation where government policies are found to be sound and in the interests of the masses.

### **Statement of the Problem**

Pakistan has a chequered history of democratic rule. The role of opposition in the democratic eras in terms of its support and opposition to the policies and programmes of the incumbent government at times has met and at times has not met the expectations of democratic theory. The post-Zia period (1988-1999) is distinctive in the sense that a vibrant opposition emerged out of the four national elections which were held on party basis during this short time. As a result of these elections, both Pakistan Peoples Party and Pakistan Muslim League (Nawaz) twice played a vibrant role of opposition in the National Assembly. In spite of this important change in the role of the opposition in the National Assembly, it has not been the subject of adequate scholarly attention. The purpose of this study is to critically examine the role of the opposition in the National Assembly of Pakistan during this period. The fact that the vibrant opposition both opposed and supported the incumbent government's various policies and decisions in this period makes the role of the opposition in the National Assembly a legitimate subject for a detailed and systematic study. It is a matter of scholarly interest to investigate as to why and how the opposition played such a distinctive role in this period. The study also proposes to identify the main issues of the society which became the focus of National Assembly debates; it intends to examine the position of the opposition on these issues and to see whether the response of the opposition to different policies and programmes of the government was in accordance with democratic norms and principles. This study is not intended to examine the position of the opposition on all issues debated in the National Assembly during the post-Zia democratic period. It is rather modest in its scope. More specifically, it seeks to focus on political, social, and economic issues. The

political issues include constitutional political amendments, writ of the state, peace and order, provincial autonomy, human rights such as freedom of speech, foreign affairs, etc. The social issues include social and cultural well-being of different segments of society. The economic issues include regulations and distribution of resources through budgetary allocation.

### **Research Questions**

- a) What is the predominant role of the opposition in the National Assembly in the period 1988-1999?
- b) What are the main issues on which the opposition demonstrated strong disagreement with the government and what was the position of the opposition on these issues?
- c) What are the main issues on which the opposition supported the government and what were their reasons for this support?
- d) Has the role of the opposition in the National Assembly changed overtime in this period?

### **Scope and Significance of the Study/Research**

This study presents historical examination and chronological analysis of the role of opposition in the National Assembly of Pakistan during the period 1988-1999. The importance of this study is two-fold. First, it enhances our understanding of role of the opposition and the important issues that are debated in the National Assembly during this period. In spite of the fact that the opposition played a vibrant role in the National Assembly during this time, our understanding of the opposition's role is inadequate. Secondly, this study has practical importance, too. It will serve as a source of awareness and knowledge for the opposition. In addition, this study will also be useful for both the government and opposition in terms of not only the understanding of the roles and responsibilities of each other, but also the mechanics and processes through which mutual conflict could be resolved in democratic ways. This study can help the opposition improve its role in the National



Assembly in accordance with the democratic values which in turn will surely strengthen the democratic system in our country.

## **Review of the Literature and Theoretical Framework**

The primary sources are essential component of any research study. For this research, primary sources are available in the shape of constitution making debates of the parliament in the National Assembly's Library Islamabad. These debates in the National Assembly's proceedings during the period 1988-99 are very useful as well as directly related to research at hand. These debates of National Assembly elaborate the stories of collaboration and stubbornness of opposition in the lower House of Pakistan. *National Assembly of Pakistan: Rules of procedure and conduct of Business in the National Assembly* (1972) is very informative and useful to understand the process and procedures of the conduct of the opposition in the National Assembly.

There are a good number of scholarly books on the politics of Pakistan. These books cover a number of political issues. Most of this literature is on the constitutional and political history of Pakistan. In these books, one comes across sporadic references to the role of opposition in the National Assembly. However, as mentioned earlier, the role of the opposition in the National Assembly has received little scholarly attention in the existing literature. In other words, there is hardly any systematic scholarly work which documents the position of the opposition on different issues of national importance in the National Assembly. The shortage of scholarly literature on the role of opposition in the National Assembly from 1988 to 1999 is one of the primary motivations for the current research. Ofcourse, there are some works where the scholars have discussed different issues of the society but they paid very little attention to the role of opposition in the National Assembly and the way it supported or opposed the policies and programmes of the incumbent government during this period.

Surendra Nath Kaushik's book *Politics in Pakistan* and G. W. Choudhry in his book, *Constitutional Development in Pakistan* covered the period of 1947-1971. The primary focus

of these books is politics which took place outside the National Assembly. Chaudhary's second book, *Pakistan Transition from Military to Civilian Rule*, focuses on the political struggle which culminated in the transition from military rule of Zia to the civilian rule of Prime Minister Junejo with Zia still at the helm of affairs as the President of the country. Riaz Ahmed in his work, *Constitutional and Political Development in Pakistan 1951-54*, focused on the early period of our constitutional history. In this book, one can find some discussion on the debates of the National Assembly with special focus on the obstructionist role of the opposition in the constitution making. Although these works do not focus on the period under study, they are still useful in terms of providing the framework for analysis.

Rafi Raza in his edited work, *Pakistan in Perspective 1947-1997* covers part of the period we are interested in. The focus of this study is the political reforms the incumbent government introduced over a long period of time. The authors of the chapters in this book wrote very little about opposition's record in the National Assembly of Pakistan.

Hamid Khan in his book, *Constitutional and political History of Pakistan* describes only a simple story of political events, which unfolded in the country up to the second government of Benazir Bhutto. Most of these events took place outside the National Assembly of Pakistan.

Nasim Hasan Shah has written articles on *Constitution, law and Pakistan Affairs*, which primarily focus on the period before 1988. In these articles he highlighted the importance of constitutional laws without discussing the role of opposition in the making of these laws.

Lawrence Ziring's book, *Pakistan: The Crosscurrent of History* highlights the political history of the era under consideration. Although he touches upon the struggle of democratic forces in the restoration of democratic rule but his focus is not the role of opposition in the National Assembly. K.M. Azam in his book, *Pakistan: economy, politics, philosophy and religion* focuses on the interaction between the state and economy and religious matters during the period which is the concern of our study. However, the book does not discuss

how the opposition in the National Assembly weighed on this interaction. Of course, the opposition cannot remain silent on such matters. The most appropriate forum for the opposition is National Assembly where it can make an effective contribution to such interaction. Such works may become richer with the inclusion of evidence from the debates of National Assembly.

Mushahid Hussain Syed's work, *Pakistan: problem of the governance* is although very informative about the problems and issues of good governances in Pakistan but does not focus on the extent to which the opposition has highlighted and contributed to these issues through the debates in the National Assembly. His second work, *Pakistan 1995*, also describes the government and politics in Pakistan of that period, but it is about the political history, including the contribution of the opposition, outside the National Assembly. In other words, it presents part of the reality, not the total reality about the extent to which the opposition contributed to the making of this political history.

Ian Talbot's book, *Pakistan: A modern history* is very interesting work; it is about political history of Pakistan with special focus on the impact of colonial heritage on political changes, including the rise of authoritarianism. He acknowledges the plurality and complexity of the society of Pakistan but does not examine the way the opposition contributed to the unfolding of these changes in the early decades of the country, especially through its role in the parliament.

Anees Jilani's book, *Advance towards democracy: The Pakistan experience* examines Pakistan's experience with democracy and dictatorship since since 1971. He seeks to explain the transition from the military rule to democratic rule in the post-Zia period through a number of variables, including the role of opposition. However, this role is mostly outside the parliament.

Jan Mohammad Dawood's work, *The political and religious dilemma of Pakistan*, is political history of Pakistan. It explores the role of judiciary in various political and religious

developments, including the Islamic laws. In other words, the role of opposition in these developments is relatively ignored.

Jamal Malik in his work, *Colonization of Islam: dissolution of Traditional Institutions in Pakistan*, explores the extent to which the modern and colonial sector of society has undermined the traditional institutions in society. In his view, the opposition in the parliament is part of the modern and colonial sector. In other words, the opposition collaborates with the incumbent government in demolishing the traditional institutions. However, he does not document the debates through which this collaboration takes place and can be proven.

Inayatullah's work, *Essays on State and democracy in Pakistan*, traces the weak roots of democracy in Pakistan. In his view the weakness of democracy can be to a great extent attributed to the power structure in the society. As a result, his focus is politics outside the parliament.

Feroz Ahmad in his work, *Ethnicity and Politics in Pakistan*, examines the question of ethnicity in Pakistan. He attributes politicization of ethnicity to many variables, including the state. However, the role of the parliament with special focus on the opposition is largely ignored. In other words, most of this politicization takes place outside the parliament.

Tahir Amin in his work, *Ethno-National movements of Pakistan: Domestic and International factors*, explains the rise and decline of ethno-national movements in Pakistan. In his view, the denial of political participation to the ethnic groups and their participation in the democratic political process play an important role in the rise and decline of ethno-national movements. The international forces play a secondary role in this process. In this explanation, the access to parliament is important but how the opposition in the parliament contributes to the rise or decline is not discussed in detail.

Iftikhar H. Malik's book, *Pakistan Democracy, Terror and the Building of a Nation*, is a political and social history of Pakistan. In this study, an attempt has been made to link the

war on terror and US foreign policy with political instability and democratic developments in Pakistan. Although it primarily deals with the activities of individual politicians and prominent political families, who at times are part of the opposition, most of their activities which take outside the parliament are examined.

Maleeha Lodhi's book, *Pakistan's Encounter with Democracies*, is an examination of the rise and fall of democratic regimes. In her view, the performance of democratic regime partly explains the chequered democratic experience of Pakistan and frequent military intervention in national politics. Although the book discusses the role of opposition political parties in their experience with democracy and military intervention, it does not examine in detail how the opposition contributed to national issues in the National Assembly.

K.K. Bhardwaj's work, *Pakistan's March to Democracy and Liberalism* deals with the evolutionary stages of democracy and the rise of liberal ideology and practice in Pakistan. The role of opposition in this process is discussed but not in the context of debates in the National Assembly. It rather focuses on politics outside the parliament.

Lawrence Ziring's another book, *Pakistan in the Twentieth Century: A political history*, covers the period up to 1996, and discussed a wide range of political developments, including the role of opposition political parties but it does not specifically focus on how the opposition's collaboration and non-collaboration with the incumbent government in the National Assembly regarding the legislation about different national issues.

P. L. Bhola's work, *Benazir Bhutto: Opportunities and Challenges*, is the political history of Pakistan in 20<sup>th</sup> century, but most of the book deals with national politics outside the parliament.

Fazal Hussain in his book, *Benazir Bhutto: Defends Herself*, is the history of Benazir's early politics, and examines how not only her family background and individual traits but also national circumstances contributed to her rise as an important political leader. However, her struggle in the National Assembly is receives inadequate coverage.

Sohail Mahmood's work, *Bureaucracy in Pakistan: A historical Analysis* is another political history of Pakistan that tells us about how the bureaucratic influence affected the performance of different governments. There is hardly any discussion of how the National Assembly dealt with national issues and affected the performance of governments.

Veena Kukerja's book, *Contemporary Pakistan: Political Process, Conflicts and Crises*, is the history of civil-military relationship and political stability in Pakistan but it does not examine how the opposition and government played a role in the National Assembly in terms of shaping this relationship.

Emma Duncan's work, *Breaking Curfew: a political Journey through Pakistan*, contains the political and economic account of Pakistan with a special focus on the military regimes. The book covers the role of opposition parties and their relationship with the military regimes; however, this role is largely outside the National Assembly.

Javed Iqbal in his book, *Islam and Pakistan's Identity*, discusses the compatibility between Islam and democracy and how different political forces approached both ideologies. However, the book largely ignores how these ideologies have been dealt with in the National Assembly of Pakistan.

Abdus Sattar Ghazali's book, *Islamic Pakistan: Illusions and Reality*, is a political history of Pakistan that covers the period up to 1996 with special focus on how the country attained the Islamic identity. The question of how the opposition and the incumbent government used the National Assembly in creating this Islamic identity does not receive adequate attention in this book.

Fazul Haque Kazi in his work, *Law and politics in Pakistan*, offers a political and legal history of Pakistan. It covers the period up to 1995 and examines how the political, economic, and social factors shaped this history. Like many other scholarly works this book also looks at the factors most of which reside outside the parliament.

Syed Farooq Hasnat Shah's book, *Pakistan Unresolved Issues of State and Society*, is concerned with the diverse issues that have existed in the society since independence but which the incumbent governments have been unable to resolve. The book relatively ignores the role of both the opposition and the incumbent government in the National Assembly in making it difficult for each other to resolve these issues.

Syed Abdul Maali's work, *The Twin era of Pakistan: Democracy and Dictatorship*, is the political history which covers the period of Benazir's first tenure as the Prime Minister of Pakistan. The book attributes the transition from dictatorship to democracy to a number of factors, including the struggle of the opposition parties. However, most of this struggle takes place outside the parliament. The book also examines the performance of the civilian government of Pakistan with inadequate attention to the role of both the opposition and the incumbent government in the National Assembly.

Benazir Bhutto's book, *Whither Pakistan: Dictatorship or Democracy* is extremely illuminating and has very beneficial commentary on political issues, including the brutalities of military rule of Zia and transition to democracy as a result of the struggle of political parties but it pays little attention to the performance of the opposition and the government in the National Assembly.

Attar Chand's book, *Pakistan, Party politics, Pressure groups and Minorities*, is an excellent debate on Pakistan's party politics outside the parliament. His work, *Pakistan: Country study* is also a political history in which the author expounds political occurrences outside the parliament in Pakistan.

Anatol Lieven's work, *Pakistan: A Hard Country*, appreciates the resilience of Pakistan in face of many threats. According to the books, of all such threats, the most serious are the threats from US and deteriorating ecology. The book is almost silent on how the collaboration between opposition and the incumbent government in the National Assembly

contributes to this resilience and how non-collaboration between the two weakens the government in face of such threats.

M. Nazrul Islam's scholarly writing *Pakistan: A Study in National Integration*, is the political history of Pakistan in 20<sup>th</sup> century. The book contains rich material on political, economic and social issues and conditions of Pakistani society, but does not provide direct support to the concerned study because there is no discussion on how the opposition and the incumbent government addressed through parliamentary debates the issue of national integration.

Maleeha Lodhi's book, *Pakistan beyond the "Crises State,"* is the political history of Pakistan in the 20<sup>th</sup> century. It examines how the state of Pakistan ran into and combated different political and economic crises. It also provides insight into how different choices of the political and military leaderships created strategic issues for the country but largely ignores the role of the National Assembly in addressing these national domestic and foreign policy crises.

Hasan Askari Rizvi's work, *Military, State and Society in Pakistan*, examines the civil-military relations in Pakistan and attributes the dominance of military in this relationship to a number of factors but the Indian threat stands out. This relationship unfolds outside the parliament.

Jan Mohammed Dawood's book, *The role of Superior Judiciary in the politics of Pakistan*, examines the influence of judiciary on political developments outside the parliament in Pakistan.

Rafiq Zakaria in his work, *The Trial of Benazir*, illustrates the difficulties Benazir Bhutto faced not only at the hand of the Zia regime but also as the first woman Prime Minister of Pakistan. Specifically, the book examines the arguments which some advanced that a woman could not become the head of an Islamic country. Most of her difficulties in this regard have been outside the parliament.



Syed Jaffar Ahmed's book, *Federalism in Pakistan*, offers historical account of federalism in Pakistan with special focus on the relationship between provinces and the federal government. The book does contain sporadic references to provincial-federal controversies; however, it is done without a systematic study of the debates between the opposition and government benches in the parliament.

Sanjay Dutt, a leading journalist, examines the political history of Pakistan in his work, *Inside Pakistan; 52 years outlook*. The book takes a long view of political developments outside the parliament giving an impression as if the parliament has no or little role in these developments.

Mazhar Ali Khan in his work, *Pakistan: The barren years: The Viewpoint Editorials and Columns of Mazar Ali Khan*, mostly covers the period of the Zia rule and highlights the political catastrophes of Pakistan which he attributes to the decisions of the military ruler. The parliamentary debates which are the focus of our study lie outside the scope of Khan's work.

Shahnaz Rouse in her work, *Gender, Nation State in Pakistan: Shifting Body Politics*, examines the struggle over gender issues in Pakistan. The struggle would mostly take place between the state on the one hand and civil society on the other and would take place outside the parliament which is treated as part of the public and state domain.

Ikram Azam's book, *Geo-Politics, political geography and Pakistan*, elucidates the impact of geopolitical developments in the region on Pakistan. Zia-ul-Islam's book, *Good Governance for Pakistan*, traces political developments in Pakistan during the almost same period we are concerned with. However, the book gives the impression that the parliament has no or little role in the democratic governance, a position which of course cannot be supported with empirical evidence.

Muhammad Aslam Syed' study, *Islam and Democracy in Pakistan*, explores the interaction between religion and politics in Pakistan. The main argument of the book is that both Islam

and politics used each other at many levels, both macro and micro level. Khalid Mahmood in his writing, *Pakistan's Political Scene (1984-1990)* discusses political issues with special focus on the impact of foreign relations on the political and economic developments in Pakistan during this period. As a result of Pakistan's preoccupation with foreign issues, such as the Soviet intervention in Afghanistan and the resistance against this intervention, the role of the parliament in addressing these issues has not been the subject of much discussion in the book.

Mohammad Waseem's book, *Politics and the State in Pakistan*, examines the way politics has played out in Pakistan since its independence and the role of the state in shaping political, economic and social developments. The role of the state is hardly shaped by the parliament rather political expediencies which reside outside the parliament mostly account for such developments.

Mehrunnisa Ali in her work, *Politics of Federalism in Pakistan*, focuses on federal authoritarian trends in politics which account for the rise of military regimes and the subordination of legislative politics to executive politics in the country. In other words, the executive rather than the legislative solutions have been emphasized in the country.

H. U. Qureshi in his scholarly work, *The Future Saviour of Pakistan*, does cover the initial period of Nawaz Sharif's government. The discussion in the book revolves around the executive rather than legislative capacities of the leadership of Pakistan which are important in dealing with the issues of national development in Pakistan.

It is quite clear from the above review of scholarly literature that there is a good body of scholarly work on politics of Pakistan. However, it is also evident that most of this work does not rely on the parliamentary debates to explore the political history of Pakistan. In short, there are no scholarly works available, which cover the entire period of 1988-99 with a special focus on the role of opposition in the National Assembly. In a sense, this study will be an important contribution to systematic attempts aimed at analyzing the role of opposition in

collaborating with and opposing the incumbent government on the issues of national importance in the parliament during the period 1988-99. This study is both descriptive and analytical, focusing on descriptive details related to the issues debated in the parliament, and delineating the nature of such debates showing both the collaboration and non-collaboration of the opposition with the incumbent government on issues of national importance. It has been established above that most of the scholars who wrote on the subject did not pay much attention to the role of opposition in the parliament during the period of 1988-99. The reason for this neglect cannot be the lack of relevant material. In fact, plenty of sources are now available to the researchers which they can use to study the role of opposition in the parliament. The scrutiny of parliamentary debates on issues of national importance suggests that the opposition collaborated with as well as opposed the incumbent government during this period.

The theory of parliamentary democracy has been used in this study to understand the role of the opposition in addressing different national issues in the National Assembly of Pakistan during 1988-90. From a historical perspective, the British Parliament is rightly called the mother of all parliaments in the world. The theory of parliamentary democracy heavily draws on the practice and tradition of the British Parliament. According to this theory, the principle of supremacy of parliament guides the legislative and policy making process in democratic countries. The doctrine of the sovereignty or supremacy of parliament means the absolute legal power of the parliament to make or unmake any law in the land. However, it is understood that if a parliament passes a law which undermines the basic human rights in long terms, such parliament fails the test of parliamentary democracy. In the British context, the parliament is the crown, lords and commons in the parliament assembled. The four essential features of the doctrine under discussion are that there is no higher legislative authority; no court can declare acts of parliaments invalid; there is no limit to the parliament's sphere of legislation; and no parliament can legally bind its successor, or be

bound by its predecessor. Thus there are no limits to parliament's sphere of legislative authority, other than those of physical possibility and practical politics.

However, the theory of parliamentary democracy alone cannot explain the legislative and policy making process in Pakistan because it is an Islamic country and Islamic ideology would be observed in line with the perception and interpretation of objective resolution of 1949 and other religious principles. The Parliament in Pakistan is not free like the rest of the world's parliamentary systems. The first constitutional assembly of Pakistan framed Objectives Resolution in 1949. It is the basic document of all constitutions of Pakistan. Its Article 2A enhanced its position and it has become an operative part of constitution of Pakistan. Article 2A declares that Objectives Resolution is substantive part of the constitution. Resolution declares: "Whereas the sovereignty over the entire universe belongs to Allah Almighty alone and the authority which He has delegated to the State of Pakistan through its people for being exercised within the limits prescribed by Him are a sacred trust."<sup>10</sup> The resolution turned down the concept of absolute sovereignty of parliament in Pakistan. In Pakistan, the parliament's sovereignty is subject to the authority of Allah Almighty, which is delegated to the State of Pakistan to be exercised within the boundaries prescribed by Allah. The constitution of 1973 is considered as a symbol of democracy in Pakistan. According to this constitution no law can be enacted which is repugnant to the injunctions of the Quran and Sunnah. Religion is supreme and parliament is subordinate to the religion. Parliament is not free to make any law of its own choice. According to this principle, whenever any variance arises between parliamentary theory and Islamic ideology, Islamic ideology will be preferred. For the same reason, the current study also explores the role of opposition in the parliament within the framework of Islamic constitutional provisions.

## **Research Methodology**

The Library of Pakistan National Assembly and the National Library have a lot of material on the topic under discussion. Legislation and legislative debates are at hand there. Furthermore, the relevant literature is obtainable from the Ministry of Law, Justice, Human Rights and Parliamentary Affairs Islamabad. A large amount of information on the topic is also available in the newspapers, including *The Muslim*; *The News International*, *The Nation*, *Dawn*, *The Daily Jang*, *The Daily Nawa-i-Waqt*, etc. Almost all such newspapers maintain archives, which are quite useful in understanding the parliamentary debates during 1988-99. Some secondary sources exist at different libraries, including the libraries of Quaid-i-Azam and International Islamic Universities. The National Institute of Historical and Cultural Research Islamabad is another good source for relevant material. In short, the available data allows us to conduct a systematic study of the role of opposition in National Assembly during the period 1988-99 in order address certain issues and problem faced by the Pakistani society.

The research approach of the current study is historical and analytical. In it, a number of sources have been used to collect data. The official records, including the record of the parliamentary debates and proceedings, have been scrutinized. Such records are the main source of data collection for this study. In addition, national and international newspapers have been used to understand the role of opposition in the parliament. News items as well as the analyses published in the form of articles and editorials have been a useful source of information. In addition, the scholarly articles, books, and reports have been consulted. Furthermore, interviews of parliamentarians, both opposition and government members, of the National Assembly of Pakistan have also been conducted.

## **Organization of the Study/Research**

Excluding Introduction and Conclusion, the research is divided into five chapters.

Chapter-1, *Performance of The Government In The National Assembly of Pakistan (1947-1988) And Divergence In The Magnetism of Opposition* deals with the background of the opposition in Pakistan and highlights the duties and responsibilities of the opposition. This chapter reflects the details of the role of the opposition in the parliament from 1947-1988.

Chapter-2, *The Issues Debated In The National Assembly of Pakistan (1989-1990) And Poles Apart Expanse of The Germaneness of Opposition*, focuses on the role of the opposition in National Assembly during the period of 1988-90. It highlights Islami Jamhuri Ittehad's (IJI) oppositional contribution in the National Assembly of Pakistan as well as it discusses the position of the PPP government in the National Assembly.

Chapter-3, *Diversified Dimensions of The Connectedness of Opposition In The National Assembly of Pakistan All The Way Through The Government of Islami Jamhoori Ittehad (1990-1993)* explores the Oppositional role of PPP and other opposition parties in the National Assembly of Pakistan during 1990-93 and examines the behaviour of government from the perspective of collaboration and non-collaboration.

Chapter-4, *The Workability And Applicability of Opposition In The National Assembly of Pakistan For The Duration of The Government of Benazir Bhutto (1993-1996)* makes an analysis of the performance of the opposition in the proceeding and legislative work of the National Assembly during the period of 1993-96. The focus of this chapter is the role of the PML (N) as an opposition party.

Chapter-5, *The Practicableness And Doability of Opposition In The National Assembly of Pakistan For The Period of Pakistan Muslim League (Nawaz) Government (1997-1999)* makes inclusion of the performance of PPP as opposition in the period of 1997-99.

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## CHAPTER- 1

### **PERFORMANCE OF THE GOVERNMENT IN THE NATIONAL ASSEMBLY OF PAKISTAN (1947-1988) AND DIVERGENCE IN THE MAGNETISM OF OPPOSITION**

Pakistan has inherited parliamentary system of government from United Kingdom with some amendments in Indian Act of 1935 introduced in 1947. From the very beginning opposition faced tremendous problems and crises in Pakistan. Government was not ready to accept the legitimate role of the opposition. Pakistan Muslim League (PML)<sup>1</sup> took the government on the basis of election in 1946 and opposition was very weak and fragile in the country.<sup>2</sup> PML focused on defense as well as economy. At the time of independence, Pakistan faced various types of external as well as internal threats. PML government prioritized defense on democracy and other disciplines of governing. Initially opposition was fragmented with different groups and factions, but later on opposition groups and small parties organized themselves and challenged the hegemony of PML. G. M. Syed (1904-95) and Abdul Ghaffar Khan (1890-1988) were pioneers in that context, who formed opposition in West Pakistan where People Party was organized by G. M. Syed. The second kind of opposition came from inside PML by those who had parted their ways with party leadership, and formed a new party. For instance Awami League (AL), Jinnah Muslim League and Azad Pakistan Party (APP) came out of PML. "New parties were formed when a career seemed to be making no progress in old party."<sup>3</sup>

However, opposition was very weak and with no strong roots in the people of Pakistan at that stage, as it had no proper ideology nor any solid program.<sup>4</sup> In East Pakistan, opposition consisted of different small groups that came out in response to Pakistan Muslim League. PML was in power in center as well as in the provinces. To compete with the PML several small organizations and groups merged and formed broader alliance for that purpose.<sup>5</sup> The governments of PML in Pakistan and Congress in India were not outcomes of any proper



parliamentary elections in their respective new countries, rather both parties held on to power because of their majority in respective parliaments based on pre-partition election of 1946.<sup>6</sup>

Consequently, at that time opposition was not in a position to challenge government policies. However, opposition in East Pakistan formed alliance in the shape of United Front (UF) and ousted PML in provincial election in East Pakistan. After seeing success of United Front many other parties also formed alliances but these mostly lasted only during election time. The PML government used every fair and unfair means to keep opposition away from government. It even passed many laws against opposition. The government postponed elections twice but opposition could not perform its role because no effective opposition existed in the parliament till 1954.<sup>7</sup> Pakistan National Congress (PNC) had only ten members as well as APP had only three members in the parliament. Both parties were very vocal about secular and democratic Pakistan while PML was against secularization in the country.<sup>8</sup> The PML ignored all demands of the opposition during the Objectives Resolution and adopted Objectives Resolution as a policy principle for forming the future constitution. At that time PNC demanded that the resolution be circulated for eliciting public opinion but government did not accept and stayed stubborn.<sup>9</sup> The PNC criticised resolution strongly and called it against the fundamental rights of minorities. Moreover, PNC blamed that it was a clear violation of Quaid-i-Azam's vision. PNC had proposed some amendments in the resolution but again government was not ready to accept.<sup>10</sup>

However, the government was maintaining that entire approach of Objectives Resolution was to incorporate Islamic ideology in the constitutional framework and that Pakistan would be a progressive and modern state.<sup>11</sup>

The minority opposition members moved the amendments in the Assembly and Pakistan National Congress supported the amendments. However, government again rejected all amendments and showed non-collaboration and non-compromising attitude.<sup>12</sup> The

Constitution draft was presented by Liaquat Ali Khan on September 28, 1950 in which he suggested that Objectives Resolution be adopted as a principle for future State policy.<sup>13</sup> The federal system of government with a bicameral parliament was proposed. Both the Houses would have equal powers in the new constitution but opposition criticised it and its major attack was on strong centre as well as financial powers of the centre.<sup>14</sup>

The *Ulama* and some religious parties were also not satisfied and had reservations regarding the Islamic State. According to them the provisions related to Islam were not adequate in the draft because the nomenclature of the State and religious qualification of the head of the State were missing. In East Pakistan political parties did not accept the draft and drafted an alternate draft in Grand National Convention in Dhaka on November 5, 1950.<sup>15</sup> Here, they demanded provincial authority and proposed that centre would handle only foreign policy, defense and currency.<sup>16</sup> They also demanded socialist republic as well as Bengali as a State language.<sup>17</sup>

Liaquat Ali Khan collaborated with opposition and invited suggestion from various schools of thoughts. The second report of Basic Principles Committee (BPC) was presented in Assembly on December 22, 1952 by the Prime Minister Khwaja Nazimuddin (1909-1963). The second report distributed powers on equal basis between East Pakistan and West Pakistan.<sup>18</sup> The second BPC report distributed power into three lists, i.e. Federal, Provincial and Concurrent list. The second report was silent about language issue. Opposition from East Pakistan criticised second report of the BPC. The party formula and Huseyn Shaheed Suhrawardy (1892-1960) called it against the principles of democracy. The Khilafat-e-Rabbani Party (KRP)<sup>19</sup> and the United Islamic Front (UIF) supported the opposition's stance in that context. Both parties were in favour of unicameral legislature with limited authority of centre, where defence, currency, foreign policy would remain in the hands of centre.<sup>20</sup> In West Pakistan media criticised the second report severely.<sup>21</sup>

The leadership of West Pakistan was not ready to accept the second report because East Pakistan was given equal powers against four Provinces of West Pakistan.<sup>22</sup> Politicians from Punjab criticised it and considered it conspiracy against Punjab. They interpreted it as an attempt to establish Bengali domination over the whole country.<sup>23</sup> The Islamic provisions of the report were opposed by the Hindu opposition members. The provision regarding “no law would be enacted” would be repugnant to the *Quran* and *Sunnah* was strongly opposed by Hindus. Hindus wanted protection of their personal law from Islamic provisions. They highlighted their apprehensions on the title of State and religious qualifications of the Head of the State. However, when their demands were not accepted they walked out from the House and did not participate in the proceeding of the legislation.<sup>24</sup>

Meanwhile, Khwaja Nazimuddin was dismissed from premiership and Muhammad Ali Bogra took charge of the office. He presented his formula on October 7, 1953 in which he proposed bicameral legislature i.e. upper House and lower House. Both Houses had equal powers. Bogra formula introduced new mode of parity and electoral system. He proposed that the head of the state would take part in election from zone other than which Prime Minister belonged to. He claimed that his formula would eliminate provincialism.<sup>25</sup> Mian Iftikharuddin (1907-1962) (Azad Pakistan Party) openly criticized Bogra formula in the Assembly on October 22, 1953. Abul kasem Fazlul Haq (1873-1962) (Krishak Saramik Party- KSP) called it as a ‘Huge Bluff’ on a trusting community.<sup>26</sup>

Opposition parties passed a resolution against Bogra formula in October 1953.<sup>27</sup> The formula was criticized by Pakistan National Congress members on the floor of the Assembly and declared that it showed lack of vision and lesser spirit of democracy in PML.<sup>28</sup> The One Unit bill was another test for government and opposition. The North West Frontier Province (NWFP) (now Khyber Pakhtunkhwa) Assembly approved the One Unit scheme but Sardar Abdul Rashid (1906-95) was not in its favour. Basically he was in favour of Zone federation plan.<sup>29</sup> However, his proposal was not accepted and he was removed from the ministry. Pir of

Manki Sharif (1923-60) was also against the One Unit scheme and boycotted the proceedings of the Assembly. The One Unit scheme was passed on December 12, 1954 but C.M. Abdul Sattar Pirzada opposed the bill publically. Majority of the members and politicians were with C.M. against the One Unit scheme. Consequently, he was also removed from his office and Muhammad Ayub Khuro (1901-80) became the C.M. of Sindh. G. M. Syed (1904-95) supported Pirzada and appreciated his bold stand against One Unit.<sup>30</sup> Government of Sindh victimized the opposition members of Sindh and detained many politicians like Abdus Sattar Pirzada, G. M. Syed, Pir Elahi Baksh (1890-1975) and Qazi Fazal Ullah on a charge of conspiring to murder the members of the cabinet. Through such tactics government pressurized the opposition and got the bill passed in the Assembly with 109 votes in favour of the bill.<sup>31</sup> Sheikh Abdul Majeed Sindhi (1889-1978), one of the opposition members stated, "Hyderabad was converted into a military camp to decide a purely constitutional issue".<sup>32</sup>

In Punjab, opposition and government was in favour of One Unit scheme and passed bill on November 30, 1954. Bahawalpur and Khairpur States also favoured the bill and merged with One Unit scheme. In Baluchistan, Kalat, Makran, Lasbela and Kharan had already agreed to merge. Khan-i-Azam of Kalat, had signed agreement in that context on January 1, 1954.<sup>33</sup> Khan Abdul Jabbar Khan (Dr. Khan Sahib 1883-1958) and Mushtaq Ahmed Gurmani (1905-1981) were designated as Chief Minister and Governor respectively. However, Federal Court had declared One Unit scheme null and void and explained that Governor General had no powers to declare One Unit scheme. Consequently One Unit scheme was again moved in the second assembly on 23<sup>rd</sup> August 1955. Awami League, Azad Pakistan Party and Krishk Saramik Party opposed the bill in the assembly. Mian Iftikharuddin was one of those who openly opposed the bill on the floor of the House.<sup>34</sup> Sheikh Mujibur Rahman (1920-1975) criticised the name of East Pakistan and demanded that Bengal had its own history that was why its name should not be changed without the consent of Bengali

people. He was the great opponent of the bill.<sup>35</sup> In spite of all the opposition, government passed the bill with majority of 43 votes in the assembly.<sup>36</sup>

Opposition also criticised the second draft of the constitution of 1956, especially the Islamic provisions in the draft. H.S. Suhrawardy was opposition leader at that time in the assembly. He stated that Islamic provisions were baseless because without providing fundamental rights to masses, Pakistan could not become an Islamic State.<sup>37</sup> Moreover, Islamic provisions would create division in the society especially among minorities. Awami League, Pakistan National Congress and Ganatantri Dal (GD) were also against the Islamic provisions of constitution of 1956.

Meanwhile, government collaborated with opposition and passed two amendments that had been moved by Hindus minority members. The first amendment was moved by K.K Dutta that was related to Hindu educational institutions. The bill permitted them to establish educational institutions under their will and wish without any bounds. The second bill was moved by Raj Ras Mandal in which he demanded that government should grant protection of services rights as well as fundamental rights of Hindus. Both the bills were admitted and passed as government showed wholehearted cooperation.<sup>38</sup>

But Awami League did not participate in the proceedings of the House and refused to sign the constitution document. However, H.S. Suhrawardy showed positive behaviour and put his signature on the constitution. Under the new constitution Chaudhry Muhammad Ali (1905-1980) took over charge of the office of the Prime Minister with the coalition of Muslim League, but his behaviour towards Muslim League was very harsh. He appointed Dr. Khan Sahib as Chief Minister of West Pakistan in spite of Muslim League's stern opposition.<sup>39</sup> This decision by Prime Minister caused huge crises in the country and Muslim League demanded removal of Dr. Khan as C.M. but Governor Mushtaq Ahmed did not accept such demands on the basis of constitutional obligations.<sup>40</sup> The crises ended with the resignation of Chaudhry Muhammad Ali from the office of Prime Minister as well as from

the membership of the Muslim League.<sup>41</sup> On September 8, 1956 Hussain Shaheed Suhrawardy formed coalition government but soon he had to resign (because of his conflict with Iskandar Ali Mirza 1898-1969). On October 11, 1957 Ibrahim Ismail Chundrigar (I.I.Chundrigar 1897-1960) became the new Prime Minister with the help of Republican Party on October 18, 1957. Historically the Republican Party had supported Muslim League over the issue of the One Unit. Secondly, Muslim League replaced joint electorate and separate system was adopted on the demands of the Republican Party.<sup>42</sup>

Later on, I.I Chundrigar resigned over differences with the Republican Party on December 15, 1957. After him, Malik Feroz Khan Noon (1893-1970) formed a coalition government that consisted of five political parties. While Republican and Saramik Krishak Party accepted ministerial portfolios in his cabinet, rest of the parties did not accept any Portfolios.<sup>43</sup>

Unfortunately, Noon's government could not survive long and was dissolved by the President Iskander Ali Mirza. Martial Law was imposed and Mohammad Ayub Khan (1907-1974) was declared supreme commander of the country on October 9, 1958.<sup>44</sup> Ayub Khan banned all political activities in the country under Elective Bodies Disqualification Ordinance (EBDO). He introduced basic democracies (BD) system that comprised of eighty thousands members. Moreover, he changed the system of government and introduced Presidential system of government in the country. To get legitimacy for his government he made new constitution in 1962.<sup>45</sup>

All political parties were against 1962's Constitution because it did not offer any space for forming new political party. But the new Assembly passed political parties Act in 1962 in which the rights of association was accepted to some extent. Basically Ayub Khan's supporters wanted to form a new political party, the Convention Muslim League (Con. ML)<sup>46</sup>. Later on, Ayub Khan joined the party and was nominated presidential candidate by the party. On October 5, 1962 opposition established alliance known as National Democratic

Front (NDF) under the leadership of H.S Suhrawardy. The main purpose of the alliance was the restoration of parliamentary democracy in the country.<sup>47</sup> Several other political parties were great supporters of that alliance on the issue of parliamentary democracy.<sup>48</sup> The alliance was at full swing but unfortunately H.S Suhrawardy passed away on December 5, 1963. The alliance remained in working position up to June 1969. Nazimuddin was one of very famous figures who started the struggle for the revival of democracy in the country and started his work in the assembly. His struggle became fruitful and he succeeded in forming an alliance of combined opposition parties on July 21, 1964.<sup>49</sup>

The Combined Opposition Parties (COP) nominated Fatima Jinnah as presidential candidate against Ayub Khan in the presidential election of 1965. Fatima Jinnah was candid like snow and her character was beacon of light in the politics as well as other field of life. She had superior character compared to other politician of Pakistan.<sup>50</sup> In spite of all the positive traits, she could not win the elections and election results were very surprising. Ayub Khan had secured 28939 votes from West Pakistan and 21012 votes from East Pakistan. Fatima Jinnah got 10257 from West Pakistan and 18134 from East Pakistan.<sup>51</sup> Fatima Jinnah and opposition blamed government of rigging and using government sources in elections campaign. But on the issue of war in 1965 the whole opposition demonstrated cooperation with the government.

However, opposition criticised government strongly on the ceasefire via Tashkent Declaration in 1966. The points of declaration were not acceptable and even Ayub's own cabinet member Z. A. Bhutto (1928-79) criticised it. Nawabzada Nasrullah Khan (1916-2003) was active in opposition politics. He united various parties on eight points and formed a new alliance on May 1, 1967 called Pakistan Democratic Movement (PDM).<sup>52</sup> The alliance demanded restoration of democracy and lifting the state of emergency from country. While on the other side Ayub Khan criticised alliance and said that if the alliance were to succeed, it would be a great disaster for the country.<sup>53</sup> Ayub Khan locked up some leaders of the

alliance due to their harsh speeches against government. In such circumstances, new political parties strengthened the hand of opposition and joined alliance with a new name Democratic Action Committee (DAC).<sup>54</sup> Students as well as masses stood up against Ayub government. Opposition arranged agitation programme against government with the collaboration of students in Rawalpindi. Police used force that resulted in a casualty. The death of one student speed up the agitation movement and the condition of law and order became worse. After witnessing the whole scenario, Ayub Khan decided to invite opposition for table talks. Opposition accepted Round Table Conference and participated in conference with their demands. In response to opposition's demands, Ayub Khan lifted the state of emergency from the country and released political prisoners including Z. A. Bhutto and Khan Abdul Wali Khan. In spite of all the efforts, Z. A. Bhutto and Mawlana Abdul Hamid Khan Bashani (1880-1976) did not participate in the conference. Ayub Khan showed relatively lenient behaviour towards the opposition and released more than thirty four political prisoners including Sheikh Mujibur Rahman. In spite of all such measures, Ayub Khan could not save his government and the conference could not produce any workable understanding between the government and the opposition. Consequently, Agha Muhammad Yahya Khan (1917-1980) declared martial law in the country. He conducted first general elections under the Legal Framework Order (LFO). After elections, civil war started that caused the dismemberment of East Pakistan in the shape of Bangladesh. Z. A. Bhutto took control of the government and started political witch hunt and kept several opponents in jail. Bhutto also dismissed coalition government of National Awami Party (NAP)<sup>55</sup> and *Jam'iyat 'Ulama-i-Islam* (JUI)<sup>56</sup> in Baluchistan. Opposition started joint struggle against Bhutto government. Consequently, JUI government in NWFP resigned under the leadership of Mawlana Mufti Mahmud (1919-1980) on 13<sup>th</sup> March, 1973. In that span of time, the opposition launched an alliance in the shape of United Democratic Front (UDF).<sup>57</sup> More than ten political parties were part of that alliance, whose major task was the restoration of real



democracy as well as provincial autonomy in the country. All political parties agreed on 12 points that were known as the Islamabad Declaration.

Opposition started movement but incident of Liaquat Bagh Rawalpindi increased the gap between the government and the opposition. Police had opened fire on meeting of the UDF that caused fifteen deaths and lot of wounded on March, 1973.<sup>58</sup> The opposition condemned the brutal act of government and the UDF decided that opposition would not attend the parliament session at all.<sup>59</sup> The situation made Z. A. Bhutto invite opposition for table talks which was accepted in the national interest as the timely completion of the new constitution was a major task before the parliament. Bhutto was in favour of the presidential system of government but opposition wanted parliamentary system in the country.<sup>60</sup>

However, the opposition and the government worked together remarkably well and passed the constitution of 1973 with majority votes of 137 on April 13, 1973. But opposition was not ready to spare government over the issue of Baluchistan and demanded that government must reinstate constitutional rule in the Province. For that objective opposition moved the motion in the National Assembly under the leadership of Mahmud Azam Farooqi (JI). During the proceedings of the house, opposition severely criticised government and blamed that government was repeating history of East Pakistan conflict.<sup>61</sup> Opposition threatened government that it would start civil disobedience movement. Civil disobedience movement could not succeed due to the use of force by government against opposition.<sup>62</sup> However, government accepted the demands of opposition on the issue of *Ahmedi* and declared them non-Muslim through constitutional amendments.<sup>63</sup> Government introduced two bills in the Parliament in which any Member of Parliament could be detained even during the session of Parliament. Through such type of legislation government wanted to victimize opposition especially National Awami Party (NAP)<sup>64</sup> leadership.

Government banned NAP on February 10, 1975 and arrested many leaders of NAP. Opposition protested against this in the Parliament as well as out of the Parliament. They

boycotted sessions of the assembly, while on the other side Speaker of the National Assembly forcefully expelled twelve members from the assembly. Chaudhry Zahoor Elahi (d. 1981) of Council Muslim League, Ahmad Raza Kasuri and Malik Salman (b. 1920) were well known figures that were expelled from the assembly. That is why Fourth Constitutional Amendment was passed without any opposition.<sup>65</sup> The Fifth Constitutional Amendment was related to Judiciary cum fundamental rights of peoples that was presented in the National Assembly on September 1, 1976. It was criticised by opposition strongly and Professor Abdul Ghafoor Ahmad (1927-2012) from JI alleged that government wanted to keep away opposition from the legislation.<sup>66</sup> During the second reading of the bill, the opposition boycotted the proceedings of the Parliament but government completely ignored opposition and passed the bill. Same was the case during the Sixth Constitutional Amendment, when, once again, the government showed stubbornness against opposition. Z. A. Bhutto of Pakistan People's Party (PPP) announced general elections schedule to be held in March, 1977.

Opposition formed a very grand alliance namely Pakistan National Alliance (PNA) for that purpose on January 10, 1977. Nine Political Parties were in alliance and Mawlana Mufti Mahmud (1919-80) from JUI was president of the alliance. Nawabzada Nasrullah Khan (1918-2003) of Awami League was nominated as Vice President of the alliance. Elections results were very surprising for the alliance because PPP had scored a landslide victory. PPP got 155 seats, while PNA secured only 36 seats in the National Assembly. PNA blamed government of rigging and boycotted the elections of the Provincial Assemblies. It also decided to launch massive movement against government on 11<sup>th</sup> March, 1977. During the movement of PNA, law and order situation of the country became worse that caused many deaths and injuries.<sup>67</sup>

The situation of the country compelled Bhutto to talk to the opposition and he invited opposition for dialogue but opposition was not ready for it at the time.<sup>68</sup> The first session of

the assembly started on 26<sup>th</sup> March, 1977 but the opposition rejected to participate and alleged that the assembly was fake and forged.

The Pakistan National Alliance presented its three demands;

- (I) Resignation of Z. A. Bhutto;
- (II) Impartial Election Commission;
- (III) Election under the supervision of army cum judiciary.

However, the government did not accept the demands of the PNA and the PNA announced nationwide strike on 26<sup>th</sup> March, 1977. While on the other hand government arrested leaders of PNA on 25<sup>th</sup> March, 1977. However, government could not control the opposition even after resorting to using unconstitutional measures. Army was critically watching the whole scenario and on July 5, 1977 declared martial law in the country. Majority of the opposition members were very happy on the arrival of martial law in the country.<sup>69</sup>

Opposition during the Muhammad General Muhammad Zia-ul-Haq (1924-1988) era was very passive and inactive. PPP was the major victim of martial law and it was running without any leadership after the death of Z. A. Bhutto. While PNA joined Zia's cabinet after negotiations but soon resigned on the basis of some issue with Muhammad General Muhammad Zia-ul-Haq, as Zia wanted to dissolve interim government before holding the elections.<sup>70</sup>Zia postponed elections twice that created distrust amongst politicians and they started to think over that kind of awkward position. The Opposition concluded that the support of General Muhammad Zia-ul-Haq was a deadly mistake. General Muhammad Zia-ul-Haq got unlimited power through temporary Constitutional Ordinance in March 1981.<sup>71</sup>

General Muhammad Zia-ul-Haq was against the parliamentary system as well as political parties. He announced August plan on 12<sup>th</sup> August, 1983 in which he recommended more powers for the President than the Prime Minister.<sup>72</sup> Moreover, he got an extension as a President through referendum in December, 1984. After his extension, he announced that general elections will be held in February, 1985 on non-party basis.

Meanwhile, opposition launched anti-martial law movement known as Movement for Reconstruction of Democracy (MRD) on February 6, 1981.<sup>73</sup> It was the first major alliance that was made against military regime. It consisted of Pakistan Democratic Party, *Tehrik-e-Istiqlal*, Awami National Party (ANP), PPP, *Qaumi Mahaz-e-Azadi*, Muslim League (Qasim Group), *Jam'iyat-i-Ulama-i-Islam* (Fazal-ur-Rehman), *Pakistan MazdoorKisan Party*, National Democratic Party Pakistan, National Party, *Pakistan Awami-e-Tehrik* and NAP. While *Jama'at-i-Islami* and Muslim League (Pagarao) did not join MRD. MRD was a mixture of various parties that had different political philosophies. But all parties were united on restoring democracy as well as constitution of 1973.<sup>74</sup> MRD launched a countrywide movement in February, 1981 but the hijacking of Pakistan International Airline (PIA) aircraft by Al-Zulfikar had weakened the MRD position. Sardar Abdul Qayyum Khan (1901-1981) parted ways after that incident. MRD announced civil disobedience movement in 1983 but it was very passive in Khyber Pakhtunkhwa, Baluchistan and Punjab. However, movement was very active in Sind especially in rural areas. Meanwhile, General Muhammad Zia-ul-Haq banned all political activities and arrested leaders of MRD, and eventually succeeded in crushing the movement. But MRD succeeded to some extent and it built pressure on General Muhammad Zia-ul-Haq and he announced general elections.<sup>75</sup> Non-parties based elections were held on 25<sup>th</sup> and February 28, 1985 for the National Assembly and Provincial Assemblies respectively. The turnover remained 52.93 percent for the National Assembly and 56.82 percent for the Provincial Assemblies in spite of opposition's call of boycott. However, People also rejected six ministers of General Muhammad Zia-ul-Haq cabinet, who contested in election.<sup>76</sup> General Muhammad Zia-ul-Haq used their defeat in his own favour and declared that elections were free and fair. One of the western diplomats in Islamabad also supported General Muhammad Zia-ul-Haq's stance.<sup>77</sup>

Some observers claim that opposition's boycott did not succeed due to the lack of leadership in opposition. Although the assembly was based on non-party basis but it was against the

concept of National Security Council (NSC).<sup>78</sup> General Muhammad Zia-ul-Haq accepted the will of members. He had withdrawn the proposal regarding Security Council.<sup>79</sup> General Muhammad Zia-ul-Haq nominated Muhammad Khan Junejo as Prime Minister (PM) who was not a well-known personality at the time but had experience as Railway Minister. He had worked with General Muhammad Ayub Khan and Zia's cabinet too. He was sworn in on March 23, 1985 as Prime Minister and got majority vote from the National Assembly. As soon as the Senate and the National Assembly started to work; both the Houses were divided into two groups; official group and opposition group.<sup>80</sup> Most of the time, official group consisted of PML Pagarao's members.

In fact PML was in power in centre as well as in the provinces while opposition was baseless and split into various schools of thoughts. On September 30, 1985 the Eighth Amendment was introduced in the assembly and passed without any hindrance as the real opposition was not present in the Assembly.

General Muhammad Zia-ul-Haq addressed the Assembly on October 17, 1985 and said,

You have brought in my amendments, You have endorsed my stance that the constitution of 1973 needed some changes... by creating a balance in the powers to be exercised by the president and prime minister, dictatorship is ought to be buried deep and forever ... that the seed of democracy which we planted two years ago has germinated and is now bearing fruit.<sup>81</sup>

Under the 8<sup>th</sup> Amendment General Muhammad Zia-ul-Haq had lifted martial law on December 30, 1985 but he remained President as well as the Army Chief. Governorships of the provinces were equally distributed among civilians and military. In such circumstances, observers criticised that the civil government was working under the shadow of army and the real power was in the hands of the military.<sup>82</sup> Later on General Muhammad Zia-ul-Haq dismissed Muhammad Khan Junejo's government on May 29, 1988 because of differences over Afghan policy and other matters. He declared election schedule and started favouring PML (Fida) but all plans were ruined after his sudden death in air crash on August 17, 1988.<sup>83</sup> After his death, Ghulam Ishaque Khan (1915-2006) took over the President's office

as he was then chairman of the Senate. General Mirza Aslam Baig became Chief of the Army Staff. Both officials agreed over five points as under;

- 1- Continuation of General Zia-ul- Haq's policies in the country;
- 2- Rule of law and justice in the country;
- 3- Protection of Islamization process in the country;
- 4- Support of the Afghan policy and;
- 5- Revival of democratic government in the country.<sup>84</sup>

Both agreed on holding election in the country and President announced the election schedule. On assurance of President and army Chief, political parties started elections campaign wholeheartedly.

### **1.1 General Elections-1988**

In Pakistan's political history, last elections were held in March 1977, in which Pakistan People's Party secured two third majorities. Then General Muhammad Zia-ul-Haq, who was then Chief of the Army Staff, ousted the government on allegation of violence and civil disorder through military coup d'état, that was code named as Operation Fair Play. Martial law was lifted on December 30, 1985 and a controlled form of democracy was introduced in the country on non- party basis. Elections were held soon after in 1985. As a result of non-party and technocratic elections, Mr. Muhammad Khan Junejo became the Prime Minister of Pakistan. The non-party based Parliament provided legitimacy to all martial laws acts since July 5, 1977 and incorporated the 8<sup>th</sup> Amendment in the Constitution of Pakistan that empowered the President with special powers of dissolution of the National Assembly under Article 58(2) b.

The President General Muhammad Zia-ul-Haq used the same power and dissolved the National Assembly on May 29, 1985 asserting that the government was inefficient and was slowing down the Islamization process.<sup>85</sup> Furthermore, President alleged that the Junejo's government failed to maintain law and order in the country, particularly in Sind and Karachi.

While announcing the dissolution the President declared that elections would be held on July 20, 1988 and would be on non-party basis.

Ms. Benazir Bhutto of PPP (1953-2007) filed a petition in the Supreme Court of Pakistan against President's decision about non-party based elections in the light of fundamental rights of citizens to freedom of association.<sup>86</sup> Supreme Court reversed the ban on political parties and on September 16, 1988, just two months before the election's day, declared that the general elections would be held on party basis.<sup>87</sup>

### **1.1.1 Contestants of General Elections-1988**

The PML was divided into two groups: one group was in favour of General Muhammad Zia-ul-Haq under the leadership of Muhammad Nawaz Sharif and the second group against General Muhammad Zia-ul-Haq after dissolution of Assemblies under the command of Muhammad Khan Junejo.<sup>88</sup> Zia wanted to unite the PML but without Muhammad Khan Junejo. In fact, prior to his death, General Muhammad Zia-ul-Haq and Nawaz Sharif both were trying to unite the party. For that objective General Zia-ul-Haq met Pir of Pagarao and Nawaz Sharif contacted Muhammad Khan Junejo.<sup>89</sup> On 5<sup>th</sup> August, Pir Pagarao met General Muhammad Zia-ul-Haq in the Army House and agreed to remove Muhammad Khan Junejo from top leadership of the PML.<sup>90</sup> But Zia's sudden death dismissed all efforts regarding the unity of the PML. Mir Zafarullah Khan Jamali (b. 1944) also met Muhammad Khan Junejo on 21<sup>st</sup> August, for uniting PML. Majority of right wing parties wanted election on alliance basis against the PPP. Therefore, *Islami Jamhoori Ittehad* (IJI) was formed on October 6, 1988.<sup>91</sup> IJI agreed on seven points agenda as under;

1. Enforcement of Islamic law in the country;
2. Equality in society;
3. Cheap and fast justice;
4. Protection of rights of women;
5. Support of the Afghan policy;

6. Support of the Kashmir issue;
7. Development of nuclear energy.<sup>92</sup>

One perception was that the Inter-Services Intelligence (ISI) played a vital role in establishing IJI because establishment was afraid that PPP would not follow the policy of military regime. Lt. General Hameed Gul was considered the mastermind behind the establishment of IJI.<sup>93</sup> IJI claimed that they would bring change in the country: for instance, separation of Judiciary from executive, education would be given priority over defence and reforms in tax system.<sup>94</sup> IJI leaders claimed that they would bring *Shariah* law and the nation would not accept the leadership of a woman in the country. They alleged that Jewish lobby was supporting Benazir Bhutto and United States Congress member Solarz was a great supporter of Bhutto in that context.<sup>95</sup>

In addition to the alliance, twenty five other political parties also played their role in the election of 1988 and some independent candidates also competed for the parliament. However, the main competition was between IJI and PPP. The IJI had been formally founded by Ghulam Mustafa Jatoi in 1988 and it was dissolved in 1990. It consisted of seven parties; Pakistan Muslim League (Nawaz Group), National People Party (Ghulam Mustafa Jatoi), JI, JUI, *Jam'iyat Ahl-i-Hadith* (JAH) (*Ludhyanwi*), *Jam'iyat-e-Mashaikh Pakistan* (*Azad Group*) and *Hizbullah Jihad*. IJI was dominated by PML (N) and *Jama'at-i-Islami*.<sup>96</sup> *Muttahida Qaumi Movement* (MQM) had boycotted the elections but interestingly its candidates fought election without using party cover. Several other political parties also took part in the election like JUI (F), JUP (Noorani) and National Democratic Party, Awami National Party (ANP), *Tehrik-i-Istiklal*, Pakistan Democratic Party, *Pakhtunkhwa Milli Awami Party*, *Jamhoori Watan Party* and others.

### **1.1.2 Elections Strategy**

The PPP fought elections on the slogan of socio-economic development, promotion of education and health facilities for common people. Furthermore, it emphasised on the



welfare of common people of the society. It introduced itself as democratic, socialist and liberal party of Pakistan. The IJI's agenda of election was not much differing from that of the PPP. However, the IJI put much focus on continuation of *Islamization* that was started during the General Muhammad Zia-ul-Haq era. The rest of the programme about socio-economic development and welfare of the common man was the same as that of the PPP.<sup>97</sup> The IJI introduced itself as a conservative Islamic political party.

### **1.1.3 Results of the Elections**

According to the results announced by the Election Commission of Pakistan, the PPP got first position with 92 seats, whereas the IJI got second with 55 seats in the National Assembly of Pakistan.<sup>98</sup> Independent candidates became important with 27 seats. No political party could get majority in the parliament. The IJI performance was very poor in Sind where even leader of the opposition, Ghulam Mustafa Jatoi, could not succeed at his native constituency.<sup>99</sup> In provincial assemblies' election, the PPP had succeeded in capturing majority seats in Sind, while in other provinces it could not get clear majority. In Punjab the IJI appeared as major party with 108 seats out of 240. In Baluchistan the JUI and the BNA bagged eleven seats each. In NWFP (Khyber Pakhtunkhwa) the PPP got 21 seats, whereas the IJI secured 29 seats. The independent members and small parties' role was viable in centre as well as in the provinces except in Sindh. For any government formation in these regions, the support of a substantial part of these elements was necessary therefore the PPP and the IJI tried their best to get their support. However, the PPP won the race against the IJI and made an agreement with the MQM whereby Altaf Hussain met Benazir Bhutto on December 2 and agreed a deal known as the Declaration of Karachi.<sup>100</sup>

### **1.1.4 Formation of the Government**

The PPP got 92 seats in the National Assembly and became the single largest party in the National Assembly. The acting president Ghulam Ishaque Khan offered Government to the PPP. Benazir Bhutto took oath as Prime Minister of Pakistan on December 2, 1988. It was a

landmark in the history of Pakistan because Pakistan was under the grip of extremist elements and Hudood laws were also very serious attack on the freedom and rights of women. It was unique event in the history of Pakistan that a woman took charge as the Prime Minister.<sup>101</sup>

The PPP formed government after forming a coalition with the MQM and some other independent members. Before forming the government, Ms. Benazir Bhutto made three commitments with the establishment. First, in the election for the presidency, PPP would support Ghulam Ishaque Khan; secondly, the Foreign Minister, Sahabzada Yaqub Khan (1920-2016), would not be replaced at any cost; and thirdly, the defence budget would be passed without any deductions. In Presidential elections, Ghulam Ishaque Khan was elected for five years on December 13, 1988. The IJI performed as opposition party in the National Assembly and Ghulam Mustafa Jatoi was elected as the opposition leader in the House.

The preceding analysis would be helpful to understand the contribution of opposition in the House.

## **1.2 Privilege Motion Regarding Violation of Article 56(3) of the Constitution of Pakistan-1973**

On October 30, the elected members of the National Assembly took oath of allegiance and all committed that they would protect democracy, constitution and Islamic ideology of Pakistan.<sup>102</sup> The newspaper, *Mashriq* Lahore, wrote an editorial in which editor advised government as well as the opposition that both would have to perform their duties within their limits and for the sake of the national interest.<sup>103</sup> Second session of the National Assembly commenced on December 6, 1988 with the recitation of the *Quran*. As session started, Syeda Abida Hussain (b. 1948) (PML-N), a well-known member of the IJI had moved the motion under article 56(3) that was related to the address of the President delivered in the Parliament.<sup>104</sup>

Article 56 (3) was an essential part of the parliamentary history because through this article President gave the policy outline of the State. Syeda Abida Hussain (IJI) added that it was a

mandatory constitutional obligation to be observed at the inauguration session of the National Assembly after every general election, president must address the National Assembly otherwise the proceedings of the Assembly would be illegitimate.<sup>105</sup>

She offered numerous examples from British political history. According to her, Queen permanently opened the first session of the British Parliament with her address. In light of Article 56(3) she claimed that first the president of the country should address the House as only then would the session formally start otherwise the entire proceeding of the House would be unconstitutional. Ghulam Haider Wyne (1940-1993) and Sheikh Rasheed Ahmad both were the members of the IJI and great supporter of the motion. Sheikh Rasheed indicated that Governor General of India always addressed the House from 1921 to 1947.<sup>106</sup>

He quoted the High Court of Calcutta;

“If a legislative assembly meets and transacts legislative business with the parliamentary address by the Governor when required under Article 76, its proceedings are illegal and may be questioned in a Court of Law.”<sup>107</sup>

Chaudhry Aitzaz Ahsan from the PPP staunchly questioned the motion of opposition on the grounds that; first, the Article 56(3) was not a solitary deal to the National Assembly; rather it covered the entire parliament, the National Assembly as well as the Senate. Moreover, the President had not been hitherto selected by the Parliament. Therefore the proceeding of the House could not be unlawful because of the absence of the address by the president. The House could keep continue its proceeding without address of the president. The opposition members Chaudhry Muhammad Ashraf (b. 1946), Nawabzada Nasrullah Khan (1916-2003) and a lot of others vehemently sustained the motion of Syeda Abida Hussain. However, Dr. Sher Afgan Khan Niazi (1946-2012) (Azad Parliamentary Group) mentioned the Article 50 that elucidated upon the composition of the Parliament.

According to Article 50 parliament consists of the President and two Houses: National Assembly and Senate. So in the light of this article, the President cannot address National

Assembly separately. Mawlana Abdul Sattar Khan Niazi (1915-2001) suggested that Houses be adjourned for one hour for consideration of the decision and stated that motion should be admitted for debate. In spite of huge hue and cry the privilege motion was not admitted by Speaker of the National Assembly. Basically confrontation ensued between IJI and PPP at a very early stage. After the results of the elections, Benazir Bhutto alleged that the previous administration was involved in rigging, while Mian Muhammad Nawaz Sharif (b. 1949) of PML-N blamed that, in Sindh PPP was openly supported by the administration.<sup>108</sup> The motion was a link in the chain of confrontation between PPP and IJI.

At the time of opposition's motions in the House, Ghulam Ishaq Khan (1915-2006) was the acting president of Pakistan. After Zia's death, he took over charge as the interim president as he was the chairman of Senate, and as per the constitution, the Chairman Senate is handed over the charge in the absence of the president. The election for President was held on December 13, 1988 in which Ghulam Ishaq Khan was elected president for the next five years. IJI and PPP both supported Ghulam Ishaq Khan. He got 603 votes while Nawabzada Nasrullah Khan was second with 140 votes. Nawabzada was an old friend of PPP but he was ignored by PPP due to the deal with Ghulam Ishaq Khan prior to the elections.<sup>109</sup>

Opposition wanted to suspend the proceedings of the House on the issue of president's address to the National Assembly. The proceedings of the House could not be halted as Article 56(3) did not prohibit so. The motion shows the stubbornness and non-cooperation of the opposition.

### **1.3 Opposition's Privileged Motion Against The Daily Jasarat**

Mrs. Aamira Ehsan, elected as woman member on reserved seats in the National Assembly of Pakistan 1988-90 from IJI, moved a privilege motion against press news that was published in *Daily Jasarat* on December 4 against Muhammad Nawaz Sharif. She alleged that daily *Jasarat* was the newspaper of PPP.<sup>110</sup> According to opposition member, the Prime Minister had contacted the Governor of Punjab through her trusted person and asked him to

postpone oath taking ceremony of the Chief Minister of the Punjab. That action on the part of the Prime Minister was the violation of the constitution of Pakistan that was why it would be debated in the House.<sup>111</sup>

The Speaker of the National Assembly ruled out the motion on the basis that privilege motions were granted to members so that they might perform their duties in the House without any interruption and constrain. The source of motion was not trustworthy and not relevant to the House's business. Sheikh Rasheed Ahmad, Syeda Abida Hussain and Ghulam Haider Wyne (1940-1993) from IJI supported the motion and alleged that Prime Minister and PPP were intervening in the Punjab political affairs which were undemocratic and unconstitutional acts by the federal government. On rejection of the motion, all opposition members walked out of the National Assembly. It was the 2<sup>nd</sup> session of the House where opposition walked out from the House. It showed that the conflict between IJI and PPP started at an early stage in December, 1988.

The opposition moved a motion in the parliament on the basis of a news story, which was illogical and could not be justified. The political parties leveled allegations against each other in the press as it was routine work of the political process. However, this situation exposed the tensions between IJI and PPP in the House. Undoubtedly the situation in the Punjab was very tense because PPP was not ready to accept Nawaz' government in spite of IJI's electoral dominance with 108 seats against PPP's 94. In spite of utmost efforts, PPP could not succeed in preventing IJI from forming government in the Punjab. In fact, the establishment and the president of Pakistan were strong supporters of Nawaz Sharif.<sup>112</sup>

#### **1.4 The Federal Employees Benevolent Fund and Group Insurance (Amendment) Bill-1988**

Khawaja Ahmed Tariq Rahim, from PPP, moved the bill and requested the Speaker to suspend the rule 92(2) under the Rule of 262 so that it could be considered urgently. Abdul Ghafoor Chaudhry (IJI) opposed the bill on the basis of time and stated that treasury benches must give time to everyone so that everyone could pass comments on it. Furthermore, we

wanted to move amendments in the bill, so if you suspend the rule then how could we move amendments in it.

Chaudhry Amir Hussain (b. 1942) from PML also supported the argument of Abdul Ghafoor Chaudhry and asked that sufficient time must be given for debate. However, the treasury benches explained that bill could not be debated at that level and referred bill to the select committee. The opposition accepted the government's stance over the bill and showed positive attitude. Actually everyone knew that the bill could not be debated without select committee's report. The same bill was debated in the House when it was moved by the government after the report of the select committee.

In 2<sup>nd</sup> session of the National Assembly which opened on December 21, the bill was moved by Javed Jabbar (b. 1945) with the report of the Select Committee. Only two members from opposition were present in the National Assembly, while the rest boycotted the session. Those two members were Syeda Abida Hussain and Chaudhry Shujaat Hussain (b. 1946). Syeda Abida Hussain questioned the bill and demanded amendments in the bill. On the other hand her demand was not deemed *pragmatic* by the government benches and Khwaja Tariq Rahim informed the House about the significance of the bill.

Khwaja Tariq Rahim explained that prior to the proposed bill; an entitled person could get benefits up to the age of 65 years. However, then he would be able to get the advantage up to the age of 70. In case of the death of spouse, other members of the family would have the right of getting share according to the law. Syeda Abida Hussain said that government must admit rights of deputed servant.<sup>113</sup> She also pointed out several other flaws in the bill. However, Khwaja Tariq Rahim elucidated all those queries and elaborated the determination of the government regarding the bill that the federal government incurred no financial implications in the bill, and that they had only provided the cover for a greater number of years along with providing the cover to the surviving spouses and children. He further compensated opposition in these words "if the honourable member wishes to bring in any

further amendment I can assure her. Let her bring a private member bill and we would certainly be very cooperative.”<sup>114</sup>

So the motion was adopted by the government for further processing on the bill and amendments moved by opposition were not admitted.

### **1.5 Delimitation of Constituencies (Second Amendment) Bill-1988**

Khwaja Tariq Rahim moved the bill in the House and requested the suspension of the rules so as it could be referred to the select committee. Over that bill opposition did not permit any annotations. When bill was offered after the report by the Select Committee, Syeda Abida Hussain debated over the bill and identified that the reserved seats of women had been granted for the first time in Pakistan in 1952 and Constitutions of 1956, 1962 and 1973 had acknowledged the prominence of women reserved seats exclusively.<sup>115</sup>

She further stated that the reality was that women found it difficult to be elected through the normal process. The new law, which was being passed, would make sure that the reserved seats of women ceased within that term of the parliament. She asked for modifications in the bill but her demands were rejected by the government and motion was adopted for further processing as the government was not ready for collaboration with the opposition.

### **1.6 The Civil Servant (Amendment) Bill-1988**

This bill was presented by Khwaja Tariq Rahim who also asked the speaker for suspension of rules for quick consideration. Chaudhry Muhammad Ashraf raised the point of order that suspension of the rules was the conduct of dictatorship era. However, other members of opposition did not evaluate the bill and the bill was denoted to select committee. In other words, opposition had recognized the plea of government for the reason that government had promised that debates would be held on bill after the report of the select committee. At this juncture the opposition's conduct was optimistic. As soon as the bill was presented for the second time, opposition played its usual role and heated debates ensued in the parliament.

Khwaja Tariq Rahim explicated the bill for a moment in the House. The original constitution of 1973 section 13 stated that a person, who had attained a service of 25 years, could be sent home without assigning any reason, and without any opportunity of hearing etc. The Supreme Court of Pakistan issued direction about the section 13 that it was against the Islamic injunctions and principles of natural justice.<sup>116</sup>In the bill servants had rights of appeal and personal hearing without which they could not be terminated from their services. The section 13 was inserted in the Act that approved that all servants could continue their service up to the age of sixty.<sup>117</sup>

Syeda Abida Hussain (JI) opposed the bill and seriously rejected it. She had assumed that the civil servants were a community of persons who were, by and large, prime beneficiaries of the State of Pakistan. They were often endowed with properties, plots and agricultural lands. She criticised the bill illogically as the personal hearing and filing the appeal was the fundamental right of every citizen of Pakistan and without giving the chance of hearing, no court could declare the punishment and penalty. Opposition had opposed the bill only for the sake of opposition in the lower House. Moreover, government was amending the bill on special order of Shariat Court.

### **1.7 Presentation of the Federal Budget for the Fiscal Year, 1988-1989**

The caretaker government had prepared the budget without the presence of National Assembly in June 1988 under the Article 86 of the Constitution of Pakistan. Under that law, the caretaker government had no powers to pass the budget. It had got expenditure approval from the president for four months only. President also had no powers to approve expenditure for running the business of government for more than four month. For additional approval, the President marched a reference in the supreme Court of Pakistan, but the court granted approval for only one month in that respective.<sup>118</sup>

Pakistan People's Party formed government on December 04, 1988, and Ehsan-ul-Haq Piracha (d. 2019) took over charge as the Finance Minister of Pakistan. On the directions of



the Supreme Court of Pakistan, he presented the budget in the National Assembly of Pakistan on December 8, 1988.<sup>119</sup> Supreme Court had issued the directive that the budget must be passed as soon as the National Assembly came into existence.<sup>120</sup> Pakistan Peoples Party's government submitted the order of Supreme Court and offered the budget was prepared by the caretaker government in June 1988.

Ghulam Haider Wyne (JI) unreceptively disapproved the budget and indicated that government had disappointed the masses of Pakistan as it did not act on the party policy of socio-economic development of the common people. Furthermore, government had firm belief in the Philosophy of Pakistan Muslim League. Government was copying five points of Muhammad Khan Junejo's programme. In that way government was trying to get rid of proper budgeting in the shelter of the Supreme Court's directions while government had enough time to prepare the budget in proper sense.<sup>121</sup>

The care taker government had sent an intent letter with some terms and conditions only and did not sign any permanent agreement with the International Monetary Fund (IMF). The present government did not have any such constraints, as it had power to accept or reject the terms and conditions. The government had accepted all demands of IMF and it had made an agreement with IMF for next three years. The agreement would push the country in a gravely adverse economic situation. He said that in the light of such environments existent rule had not rights to pitch the accusation on custodian government.<sup>122</sup> He said that government had imposed an extortionate amount of taxes on the poor people. He cited that import surcharge tax worth one hundred twenty cores was the example of such taxes that would raise the cost of basic necessities for common people of Pakistan. He had offered certain propositions to government for the upward mobility of the people and federal provincial harmony. Those included;

1. National commission award should be awarded at once.
2. Engery crisis to be reducing through "Kalabagh" Project <sup>123</sup>

### 3. Sind water should be divided.

On Kalabagh project opposition was fragmented as many notable members were divided on Kalabagh dam issue. However, opposition raised the issue only for giving tough time to the government. Sind water dispute should be referred to the Supreme Court and it should be time bounded.

Opposition criticized the law and order condition of the country that was deteriorating day by day. Government must take care of it and the prisoners should not be released from jails without first conducting appropriate investigation and assessment. In some measures, certain submissions by the opposition were very realistic, but various were found to be rationally inadequate for the government. Sind water dispute was no doubt a very noteworthy issue but it did not need to be referred to the court because there was already an Authority working on it.

Byram Dinshawji Avari defended the government's position and explained that the agreement with the IMF and World Bank was binding because of the letter of intent (by the interim government) and it was an international commitment that could not be retracted by Pakistan. Pakistan was a deep-rooted partner of IMF and without getting aid, the affairs of the government could not sustain. The preceding governments had initiated this particular undertaking, and nobody could blame present-day government in that sense.<sup>124</sup> Akbar Ali Bhatti (PML-N) put forward the suggestions for reducing the rate of inflation in the country, and he did not merely criticise the government. He asked:

- 1- All expenses of the government as well as defence expenditures be condensed and reduced by a minimum 10%.
- 2- The federal and provincial ministers' be curtailed to least possible.
- 3- The irregularities of government institutions and autonomous bodies must be eradicated.
- 4- Loans must be awarded to small industries; as it would provide healthier production.

5- Government to formulate budget for a second time and move it in the National Assembly on January 26, 1988.

The opposition members; suggestions were, to some extent, judicious but all were not adequate. For instance the reduction in defence budget was not an easy task. Secondly, prior to assume the office, Prime Minister Benazir Bhutto had made some assurances to the establishment and defence budget was on top of that list of assurances. In the history of Pakistan, no civil government had ever had enough power to cut the defence budget, whereas the existing government was already very fragile. Sardar Ashiq Muhammad Khan Mazari pointed out that government had allocated insufficient budget for family planning and it was a fact that if we did not pay heed to that issue, no efforts of economic development would succeed. Consequently, government needed to incorporate a valid and dynamic programme of family planning in the country. Since the majority of opposition comprised of conservatives, they were unanimously against family planning programme. Every opposition member delivered long discourses against the family planning and tried to prove it un-Islamic and against the shariah. Attiya Inayatullah had labeled the budget as “old wine in new bottle.”<sup>125</sup> Drug issue in Pakistan was a serious and scorching issue that was utterly neglected by the government. In Pakistan, there were sixty thousand heroin addicts that was a great tragedy for the civil society of Pakistan. Government needed to overhaul the Pediatric Nursing Certification Board (PNCB) that dealt with drug addicts.

Additionally, an important issue of *Biharis* settlement in Pakistan was a main concern, but then unfortunately government did not allocate funds for that purpose. Biharis were the people who had supported Pakistan in East Pakistan against *Mukti Bahini* in 1971 war.<sup>126</sup> At the time, they were going through desperate times in Bangladesh. Unfortunately, they were still in Bangladesh and every opposition raised the issue when they were in opposition, but as soon as they took government, their words did not follow any action. Government must arrange for funds for the establishment of separate jail for women. PPP contested election

with the promise of betterment of women and resolving the issues of women. But in actual budget government did not allocate substantial funds for that purpose. Furthermore, she expressed her optimism about Kalabagh issue and pointed out that the foreign assistance was on offer for that scheme. She also lamented that the issue had been made a political one and hoped that PPP government would candidly take that subject.

Chaudhry Muhammad Ashraf (IJI) passed inappropriate comments on the budget and indicated that government did not write even a single word about the freedom of Kashmir in the budget manuscript.<sup>127</sup> He delivered an extensive speech in National Assembly that was entirely irrelevant to budget but the opposition cherished his demagogic discourse. He was also a supporter of Kalabagh dam and demanded that Kalabagh dam must be built immediately. Opposition commented critically on budget but they contributed very little over pertinent subject matter. Certainly some were very constructive and offered certain good suggestions on the budget but the majority was only there to display their presence in the House.

## **1.8 Headship of Woman and Violation of Constitution**

Point of order was considered as, “To call the attention of the assembly and of the presiding officer to violation of the rules an omission a mistake or an error in procedure and to secure a ruling from the presiding officer on the question raised.”<sup>128</sup> IJI was a mixture of rightist political parties cum some small religious parties. From the very first day, they were against the leadership of woman and it had started election campaign with the slogan of “Pakistani People will not accept the leadership of a woman.”<sup>129</sup> Raja Muhammad Zaheer Khan of IJI raised point of order in National Assembly about the headship of women. According to his statement it was unquestionably a violation of the constitution if any woman was to take charge as the head of the State. He quoted the resolution of the constitution: “Wherein the Muslims shall be enabled to order their lives in individual and collective spheres in accordance with the teaching and requirements of Islam as set out in the Holy Quran and

Sunnah.”<sup>130</sup> He supposed that according to Hadith of the Last Prophet Muhammad (S.A.W.W.) the woman had no right of governing. That is why we would be violating the teaching of Islam and the Constitution of Pakistan. Sheikh Rasheed Ahmad also supported Raja Zaheer Khan. Hafiz Hussain Ahmed strongly supported the opposition’s members and said that Pakistan came into being on the Ideology of Islam and appointment of a woman as head of the State would be a violation of the ideology and a violation of Islam. He recommended that the issue of women as Head of State be referred to the Council of Islamic Ideology (CII) so that it could be settled.<sup>131</sup>

The Speaker of the National Assembly ruled out the point of order of the opposition and opposition walked out from the House. Opposition pointed out the issues that were not about to the procedure and conduct of the National Assembly particularly legislative business. The Elections 1988 were held under the cover of the Constitution of Pakistan 1973 and Prime Minister Benazir Bhutto was elected through election. Moreover the constitution did not enforce ban on women’s election as head of the State. In addition, Pakistan’s parliamentary system was very similar to western parliamentary system that provided equal chance of promotions without any discrimination. Such behaviours of the opposition in the National Assembly showed that opposition approach was stubborn.

### **1.9 Dissolution of the Baluchistan Provincial Assembly**

In the provincial elections of 1988 the JUI bagged eleven seats in the Baluchistan Assembly and Baluchistan National Alliance (BNA) secured only six seats in the Assembly. The JUI and BNA designed coalition government with the help of some other members. It was a thought-provoking development in the Baluchistan Assembly when PPP and IJI jointly established a parliamentary group called “Likeminded Parliamentary Group”.<sup>132</sup> That group consisted of 15 Members of Provincial Assembly who were elected as independent, either from PPP or IJI. They made a written declaration according to which the group was bound to remain united on establishing the government or formation of the opposition. Moreover, any

member of the group would not hold talk with any party without prior approval of the group and new entrance in the group was not permitted.<sup>133</sup>

For the formation of the provincial government, JUI granted the authority to its provincial chief, Mawlana Muhammad Khan Sherani (b. 1938) MNA from JUI, to negotiate with likeminded parliamentary groups. The PPP, IJI and some independent members jointly elected Zafarullah Khan Jamali from IJI as Chief Minister of Baluchistan. However, it was a fragile government as the supporting members had differences in all respects, like ideology and mind set. Muhammad Musa Khan (1908-1991), a retired military general, was the Governor of Baluchistan at that time. He was appointed by late General Muhammad Zia-ul-Haq. The Governor dissolved the provincial assembly under Article 112(1) of the constitution on the advice of the Chief Minister on December 15, 1988.<sup>134</sup> The Chief Minister was from IJI but PPP had supported him after election for the formation of the government. On dissolution of the provincial assembly, opposition MNAs put on stormy protest in the National Assembly and accused Benazir Bhutto of engineering the move against the provincial government.

Nawabzada Nasrullah Khan spoke on the point of order and said that PPP government had taken an unconstitutional and undemocratic step in Baluchistan. So National Assembly should take action against it. Sheikh Rasheed Ahmad also supported Nawabzada Nasrullah Khan on that issue and further enlightened by referring to a news item that a settlement between BNA and JUI had been reached but the federal government had sabotaged the process and disbanded the Assembly.<sup>135</sup>

Nawabzada Nasrullah Khan identified that the election of Chief Minister was in itself controversial and majority members in the Provincial Assembly had later casted a vote of no confidence in him. In such circumstances, how could he give advice of dissolution of the Assembly to the Governor? Sheikh Rasheed Ahmad enlightened the House about the Article 112(1) in these words;

Explanation-Reference in this article to Chief Minister, shall not be construed to against whom a notice of a resolution for a vote of no confidence has been in the provincial assembly but has not been voted upon or against whom a resolution for a vote of no-confidence has been passed or who is continuing in office by virtue of clause (2) of article 134 or a provincial Minister performing the functions of Chief Minister under clause (1) of Clause (3) of article 135.<sup>136</sup>

Ghulam Haider Wyne also blamed the PPP government and said that PPP government had done the same in 1973 that created chaos and disturbance in the Baluchistan and put the province into civil war that lasted for four years. Now again the same party's government was repeating history in the same province that would be harmful for the whole country generally and for the democracy specially.

Syeda Abida Hussain, Mawlana Abdul Sattar Khan Niazi, Rana Nazeer Ahmed Khan and other members of opposition recorded furious protests against government's alleged role in Baluchistan and demanded that it to be referred to the standing committee of the National Assembly of Pakistan. However, the government completely over ruled the allegations of the opposition. Benazir Bhutto insisted that she had no prior information of the governor's decision. However, she believed that the governor had taken the step in accordance with the constitution of Pakistan. Dr. Sher Afgan Khan Niazi supported the government's stance.

Chaudhry Atizaz Ahsan defended the government and said "The governor shall dissolve the provincial assembly, if he is advised by the Chief Minister."<sup>137</sup> Furthermore, the federal government had not intervened in Baluchistan and the objections of opposition were absolutely irrational. Moreover, Chief Minister of Baluchistan did not belong to PPP rather he was a member of IJI. Additionally, the Governor was also not related to PPP but was appointed by General Zia-ul-Haq. How could opposition, in such conditions, blame the federal government? On the basis of this, the motion of privilege by opposition was ruled out. In response, opposition walked out of the House on the rejection of the motion.

The Attorney General, Yahya Bakhtiar (1921-2003), presented two-point formula for the restoration of Baluchistan assembly. He stated that if IJI could help in restoring the 1973 constitution to its original shape, then the Provincial Assembly of Baluchistan would be

restored at once. However, IJI categorically declined the proposal and called it the “subject of bargaining” over 8<sup>th</sup> Amendment. In addition, the IJI explained that Punjab Chief Minister, Nawaz Sharif, had already contemplated Jamali’s expulsion in view of his close ties with PPP. Further, Governor Musa had not been replaced by the PPP, so that was sufficient evidence of the wrong done by the PPP.

Later on, the High Court of Baluchistan restored the Provincial Assembly. The order admitted fact that Mir Zafarullah Khan Jamali had no power to give advice under Article 133(3) of the constitution. The JUI (F), BNA and IJI formed tripartite alliance on January 26, 1989. As a result of the alliance, BNA chief, Nawab Akbar Shahbaz Khan Bugti (1927-2006), became new Chief Minister of Baluchistan. The analysis presented above highlighted different aspects and opened many new dimensions in the political history of Pakistan. First, the opposition was not in favour of restoring 1973 constitution to its original shape and was in favour of 8<sup>th</sup> Amendment. Later on, the same members passed their vote against the same amendment. On the other hand, the government was authoritative and did not accept motions, except only for debating in the House.

The opposition and government members in the National Assembly continued in a similar vein for the following two years. The detailed analysis of their encounters was the subject matter of next chapter which systematically brings into limelight the disposition of opposition and treasury benches encounters in the National Assembly.



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- <sup>11</sup>*Constitutional Assembly of Pakistan Debates Official Reports*, Vol. V, (March 1949), 98.
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- <sup>14</sup>Badruddin Umar, *The Emergence of Bangladesh: Class Struggle in East Pakistan 1947-58* (Karachi: Oxford University Press, 2004), 165.
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- <sup>16</sup>Badruddin, *The Emergence of Bangladesh*, 165.
- <sup>17</sup>G.W Choudhary, *Democracy in Pakistan* (Dacca: Green Book House, 1963), 70-72.
- <sup>18</sup>Rizwan Malik, *The Politics of One Unit 1955-58* (Lahore: Pakistan Study Centre, University of the Punjab, 1988), 6-8.
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- <sup>20</sup>*Ibid.*, 6-8.
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- <sup>43</sup>*Ibid.*, 73.
- <sup>44</sup>MubarkAli Khan, *Understanding Pakistan* (Lahore: Progeesive Publisher, 1992), 142.
- <sup>45</sup>Rizvi, *The Military and Politics in Pakistan*, 119.
- <sup>46</sup>Choudhry Khaleeq-uz-Zaman, who was appointed chief organizer of the Con. ML, organized the party throughout the country. By the time it was formally organized, Ayub Khan assumed its presidentship in 1963 and held that office till December 1970. The Con. ML was actually his handmaiden and revolved around his personality and policies. After Ayub Khan's exit from power in 1969, many of its leaders and workers left the party. Under the presidentship of Fazlul Qadir Choudhry, a former Bengali federal minister and Speaker of the NA, the party participated in 1970 general elections. The salient features of its manifesto were: a federal system of government with defence, currency, foreign affairs, foreign trade and inter-wing communications as the central subjects; decentralization of economic and provincial autonomy; nationalization of basic industries, banks, and insurance companies; and fixation of ceiling on landholding at 250 acres. In West Pakistan the party stayed with the opposition till it was merged with the Cou. ML to form a broader party. For details see Safdar Mahmud's *Pakistan: Political Roots and Development 1947-1999* (Karachi: Oxford University Press, 2007), 121-23.
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- <sup>55</sup>The National Awami Party (NAP) was established on July 25, 1957 as a result of a rift in the Awami League. Mawlana Abdul Hamid Bhashani, the East Pakistan's chief of the Awami League differed with the President of the Party, Hussain Shaheed Suhrawardy, and left the party along with his supporters. In a democratic convention held in Dhaka in July 1957, the NAP was formally launched with Bhashani as the head of its organizing committee. The West Pakistan-based Pakistan National Party (PNP) merged into NAP. The PNP was a merger of six minor parties i.e., Azad Pakistan Party, Red Shirts, Sindh Awami Mahaaz, Sindh Haari Committee, Wrori Pakhtun and Ustaman Gal. The NAP's main policies were to break up the 'One Unit' in West Pakistan, introduction of land reforms, regional autonomy, and abrogation of defence pacts with the West and adoption of an independent foreign policy. Prominent leaders of NAP were Khan Abdul Ghaffar Khan, Abd-us-Samad Achakzai, Prince Abdul Karim, G.M. Syed and Mawlana Bhashani. (M. Rashiduzzaman, "The National Awami Party of Pakistan: Leftist Politics in Crisis," *Pacific Affairs*, Vol. 43, No. 3 (autumn, 1970): 394-409.
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strict enforcement of traditional Islamic law. JUI helped establish thousands of Madaris in Pakistan, more than any other religious movement. (See Safdar Mahmud's *Pakistan: Political Roots and Development 1947-1999*, 156-59.

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## CHAPTER- 2

### **THE ISSUES DEBATED IN THE NATIONAL ASSEMBLY OF PAKISTAN (1989-1990) AND POLES APART EXPANSE OF THE GERMANENESS OF OPPOSITION**

After the elections, 20 constituencies were to be vacated for by-election as the winner had won from more than one constituency. Seven seats were vacated in Provincial Assemblies and thirteen were vacated in the National Assembly. Out of 13 seats of National Assembly, nine were in Punjab where IJI was in power and it was a great test for PPP.<sup>1</sup>At that time Benazir Bhutto had tried to repeal the 8<sup>th</sup> Amendment, which was opposed by the President as well as Army Chief.<sup>2</sup> PPP performed poorly in the by-elections as it secured only four seats in the National Assembly out of 13 whereas IJI won seven seats. In spite of this poor performance, PPP maintained its majority in the National Assembly of Pakistan.<sup>3</sup>Consequently, the 4<sup>th</sup> session of the National Assembly commenced on February 5, 1989; the composition of Treasury Benchers and opposition was the same as previous sessions. The PPP was in government with MQM and ANP as coalition partners. IJI played the role of opposition in the National Assembly of Pakistan.

#### **2.1- Entrance and Participation of Advisors in The National Assembly of Pakistan's Proceedings**

The opposition showed hostility towards the entry of advisors in the House and it was not ready to admit the rights of advisors sitting in the Assembly, casting votes and participating in the proceeding of the House. On the other hand, the government was determined to get the advisors in by hook or crook. Chaudhry Amir Hussain a prominent member of IJI passed his comments on point of order and had tried to delineate the rights and privileges of the advisors under the Constitution of Pakistan 1973. He indicated that the Prime Minister, Minister of State, Parliamentary Secretary had privileges to sit in the House. However, in the right of vote they had the same rights as Attorney General, who had no right of vote during

the proceeding of the house.<sup>4</sup>To elucidate his argument, he cited Article 57 of the 1973 Constitution of Pakistan in the words:

“The Prime Minister, a Federal Minister, a Minister of State and Attorney General shall have the right to speak and otherwise take part in the proceeding of either House or a joint sitting or any committee thereof, of which he may be named a member, but shall not, by virtue of this article, vote.”<sup>5</sup>

Thus under this article, the above mentioned figures had the right to sit in the House however, they had no right of vote. And if they took part in the proceeding of the House by voting, the entire proceeding would be considered illegitimate and unconstitutional. Syed Iftikhar Hussain Gillani (Minister for Law and Justice) had strongly defended the stance of the government on the issue of advisors’ participation and vote. He also mentioned the constitutional Articles 57 and 93 and identified that the articles equally awarded the authorisation of advisors in participation of the House business. Ghulam Haider Wyne, one of the leading figures of opposition, counter attacked the Minister’s statement and passed his comments that the Article 93 only defined the appointment of advisors and it did not explain anything further. He accepted that the advisors could sit in the House but maintained that they could cast vote in the course of the proceedings of the House.

Interestingly, the opposition members were not well aligned on this issue. There were contradictions among them even about advisor’s sitting in the House. However, the majority agreed that the advisors could sit in the Houses, but all the opposition was not prepared to hand the right of vote to Advisors. Chaudhry Muhammad Ashraf, opposition member, admitted that the Prime Minister had power to appoint maximum five advisors but advisors have no power to cast vote or participate in other business of the House.<sup>6</sup> Syeda Abida Hussain criticised the government in very harsh terms and stated that during the whole parliamentary history, especially in 70s and 80s, the advisors had no place in the sense of proceeding and other business of the National Assembly of Pakistan. Ghulam Haider Wyne

challenged the government on that issue and said that government had appointed those people as advisors who had been rejected by masses in the general elections, and it was a vivid violation of the Constitution of Pakistan.

In spite of the severe opposition government was firm on its stance and both Ministers of government defended the government's description. Minister for law and justice, Syed Iftikhar Hussain Gillani, expressed his views and said that "government is abiding constitution in letter and spirit."<sup>7</sup> The Minister for Interior, Atizaz Ahsan, elucidated the government's vision and quoted constitutional Articles 93(2) and 57 in the following words: "The Prime Minister, a Federal Minister, a Minister of State, and the Attorney General shall have the right to speak and otherwise take part in the proceedings of either House, or joint sitting, take part in the proceeding of either House or any committee thereof, of which he may be named a member, but shall not `by virtue of this article be entitled to vote."<sup>8</sup> Consequently, they had no right of voting plus speaking in the House.

In a nutshell, the speaker supported the government and ruled out the opposition's motion. At the time, both government and opposition were involved in confrontational politics and both were not abiding by the principles.<sup>9</sup> Moreover, both sides were quoting constitutional articles in their arguments and they were interpreting articles in their own needs and choices however both were not clear in their stance.

The opposition is an integral part of democratic system of government but unfortunately in Pakistan the rights of opposition were never acknowledged in the whole parliamentary history. Opposition had to face numerous hardships and hindrances in performing its constitutional role. However, some time its role was also not very honourable in that perspective. In fact, during certain periods, opposition played a very destructive part and showed undue stubbornness on issues of national interest.

## **2.2- Tapping of Telephone Calls of Opposition Leaders**

Chaudhry Shujaat Hussain, a high-ranking member of opposition moved a privilege motion regarding tapping of telephone calls of opposition on the basis of news that had been published in the newspaper *Jasarat*. According to the news, intelligence agencies were engaged by Government in tapping the phone calls of the opposition. He pointed out that through such activities government is violating the fundamental rights of the citizens that were granted by the constitution of Pakistan. He alleged that government was repeating its party history because such activities were done in Zulfikar Ali Bhutto's era. He further tried to prove his argument by sharing a personal experience where he met one intelligence officer who was deputed by government for that illegal duty and that officer himself admitted before Shujaat Hussain that he was involved in illegal wiretapping.<sup>10</sup>

Sheikh Rasheed Ahmad from IJI, Syeda Abida Hussain and Ghulam Haider Wyne, wholeheartedly supported the motion of Shujaat Hussain. On the other side, the treasury benches completely rejected the oppositions' supplication and Chaudhry Aitzaz Ahsan stated that such type of activities the part of the Zia's era. He further, elaborated that the government condemned such undemocratic norms and relied on freedom of thought. He further alleged that Pakistan Muslim League's previous government had practiced such activities where it locked the politicians and curbed the rights of citizens. We were democratic people and could never think like that, so it was purely a blame game by the opposition.<sup>11</sup>

The Speaker of the National Assembly Malik Meraj Khalid (1915-2003) considered the privilege motion according to the code of conduct and referred it to the privilege committee.<sup>12</sup> While Chaudhry Shujaat Hussain demanded that his privilege motion was admitted directly without referred to the committee because he had solid proof regarding that motion.<sup>13</sup> Sheikh Rasheed spoke on the point of order and added that government had established an institution for that purpose and it had imported instruments from USA.



Furthermore, there were 22 opposition members in the list, whose phones were being tapped. Malik Qasim, Javed Jabbar, Iqbal Jaffar and Sarwar Saghir were on top of the list.<sup>14</sup> While Dr. Sher Afgan denied the allegations and said that the list was not prepared by the current government rather previous government was involved in it. He had opposed motion under Article 68(2). However, Mawlana Abdul Sattar Khan Niazi and Attiya Inayatullah called Sher Afgan statement out of context.<sup>15</sup> However, on the statement and assurance of the minister, the speaker of National Assembly ruled out the privilege motion. The opposition member Mian Muhammad Usman was demanding the formation of technical committee for further investigation. Undoubtedly the opposition demand was, to some extent, reasonable. Had the government accepted the demand, the issue would have been eliminated at once, and this would have changed confrontational politics into collaboration politics but both sides were not ready for that as yet.

### **2.3- Discussion on President's Address to the Parliament**

Ghulam Ishaque Khan was sworn in as President on December 13, 1988 by Chief justice of Pakistan, Muhammad Haleem Siddique in the main Hall of Aiwan-e-Sadar.<sup>16</sup> Ghulam Ishaque Khan addressed the nation on December 14, 1988 and said, "As a Nation we blundered by not respecting sanctity of the Constitution in order to satisfy political expediencies and reap timely gains."<sup>17</sup> The opposition moved the privilege motion in the first session of the National Assembly that without the address of the President the proceeding of the House would be unconstitutional and out of law. But at the time, the president was not an elected President but a caretaker President. As he got elected from the parliament he addressed joint session of the parliament. After the address of the President, under the Parliamentary conventions, the Speaker provided the opportunity to opposition as well as treasury benches to discuss the address of the president. On December 15, 1988, the day after the President's address, Federal government took an unconstitutional step and dissolved the Baluchistan Provincial Assembly.<sup>18</sup> Opposition decided about resignation from the

Parliament under the leadership of Nawabzada Nasrullah Khan, but, for the sake of democracy, IJI opposed the decision and Sheikh Rasheed Ahmad vehemently opposed the decision of resignation.<sup>19</sup>

Ahmed Saeed Awan defended the government and said that the government had granted permission for the matter to be referred to the court. The High court of Baluchistan had already restored the Assembly; therefore the opposition could not blame the government on the issue of Baluchistan. But opposition leader alleged that they could not spare the Prime Minister in that perspective, however the Judiciary had played a fabulous part and we paid salute to the dignity of the Court. Mir Zafarullah Khan Jamali explained the position of government in *Nawa-i-Waqt* newspaper in which he explained that the government was involved in the decision of dissolution of the assembly. We would have to accept the constitution in letter and spirit, only then the democracy would flourish in the country.<sup>20</sup>

Moreover, the federal government did not accept Punjab government and its behaviour towards Punjab was very antagonistic and undemocratic. Furthermore, he pointed out the statement of the Attorney General in which he stated that the Senate could be dissolved for the reason that its formation was based on non-party basis. All such steps were unconstitutional that would be harmful to democratic process in the country. Opposition condemned the interfering in the local government of Punjab by federal minister for local bodies, Makhdum Syed Faisal Saleh Hayat, and cleared that it was purely a provincial matter that did not warrant any interference by the federal government.<sup>21</sup> Opposition attacked the government and referred to the Prime Minister's interview to *Financial Times* in which she specially mentioned the rigging in Punjab, and through it she tried to make the credibility of selection of MNAs from Punjab appeared dubious. In her first formal press conference, she blamed Nawaz Sharif and IJI of pilfering the election in the Punjab and termed Nawaz Sharif, Ghulam Murtaza Shah (G. M. Syed) of Punjab.<sup>22</sup> Furthermore, government had to deviate from Constitution during the appointment of advisors. Government appointed those

Advisors that were rejected in general elections by the people of Pakistan. For example, N.D Khan and Khalid Ahmed Khan lost their seats in election but they were appointed as advisors.<sup>23</sup> Such steps were un-constitutional in spirit. Minister for Law and Justice, Syed Iftikhar Hussain Gillani, answered opposition's allegations and alleged that the opposition itself was violating the traditions of democracy and announced the names in the assembly in the context of advisors. Ghulam Haider Wyne quoted the president in which he had said that the constitution was not a book of heaven that could not be amended. The opposition would support the government if the amendments were in favour of democracy and welfare of the people.<sup>24</sup>

On the issue of 8<sup>th</sup> Amendment Prime Minister herself initiated the contact with the opposition, which was not an easy task. If the government informed the opposition about the proposal, then the opposition would not create the confrontational environment. However, Sheikh Rasheed Ahmed openly supported the 8<sup>th</sup> Amendment and alleged that PPP wanted one party system in the country through repealing 8<sup>th</sup> Amendment so that PPP could easily wind up nuclear programme.<sup>25</sup> Opposition's stance inside the National assembly was different as well as outside of the Assembly.

With regards to relations with India, the Kashmir issue should have been top priority. Kashmir was one of the major international issues and it was supposed be settled in accordance with the UNO resolutions. The Government should avoid friendships with India without the settlement of the issue first.<sup>26</sup> Mian Abdul Khaliq (opposition MNA) passed very harsh comments and said that Jews and Hindus were considered best friends of the Prime Minister and alleged that PPP had sold Kashmir to India.<sup>27</sup> Opposition also requested the government to solve the problem of Sind. Benazir Bhutto admitted the proposal of opposition and directed army on May, 1989 to subdue the criminals in Sindh.<sup>28</sup> Opposition condemned the statements of Jehangir Bader (1944-2016) and Mukhtar Ahmed Awan that they had passed against the Punjab Government. Opposition alleged that federal government

was transferring high officials e.g. Inspector General of Police without consent of the Punjab government that would be harmful to harmony with opposition.<sup>29</sup> Opposition strongly criticised the relations with India as the relations would be harmful to ideology and culture of the country. He further argued that the government should avoid coming into any agreement with India in that regard.<sup>30</sup> Outside the Assembly, opposition was claiming that government had sold Kashmir while inside the Assembly opposition was presenting proposal solution of Kashmir issue. There was some great confusion within the opposition's stance on Kashmir issue.<sup>31</sup>

On government front, it defended its version and Mukhtar Ahmed Awan from PPP identified that confrontational politics was not beneficial for the country and the whole nation wanted the elimination of 8<sup>th</sup> Amendment from the constitution.<sup>32</sup> Benazir Bhutto had already declared that government would repeal the 8<sup>th</sup> Amendment. She said, "We are committed to restoring the constitution of 1973, which was Islamic, democratic and representative and hope that all democratic forces in the country would cooperate with us in ridding our constitution of that black spot which cast a dark shadow on the working of a free and democratic system."<sup>33</sup>

Khan Abdul Wali Khan (1917-2006) ANP had supported the standpoint of government to some extent. He stated that in our country the president was more powerful than Prime Minister while it was contrary to the parliamentary essence. In parliamentary structure President delivered written speech that was written by ruling party but there the situation was absolutely contradictory. No doubt that we were the architects of 1973 constitution, but the current amendments had made it unworkable. Now it was a collection of PCO, RCO, Ordinance and it was a constitution for the dictator. In fact, calling it 'constitution' was an insult to the original constitution. We should amend it step by step, he urged.<sup>34</sup> He criticised the foreign policy of Pakistan on the issue of Afghanistan. He concluded that it was the war of America and Russia but unfortunately Pakistan dragged herself into it. Now again,

Pakistan was intervening in Afghan issue without any reason. It was a pure internal issue of Afghanistan; Pakistan was not to interfere in it. Moreover now that Russia had gone out of Afghanistan than why was the USA distributing weapons in the Afghanistan. Did they want civil war in the Afghan society?<sup>35</sup> The issue needed to be settled on political grounds; else the weapons that were supplied in Afghanistan would be used in Pakistan. He demanded that the Geneva accord was to implement with real letter and spirit so that sixteen hundred thousand displaced people could go back their homes.<sup>36</sup>The ANP was not in favour of the Afghan policy of government but PPP was not free and independent with reference; to Afghan policy because of their agreement with the President and Army Chief.

The Soviet Union had left Afghanistan in February, 1989 but the crises still continued. ISI head, Lt-General Hamid Gul (1936-2015) was assisting fundamentalist groups in Afghanistan. Wali Khan was against the intervention of ISI in Afghanistan but after the breakup of coalition with ANP, Benazir replaced the head of ISI.<sup>37</sup>He further elaborated that provincial autonomy was the prerequisite of the time and Pakistan had gone through a traumatic experience in the shape of the separation of East Pakistan. He suggested that the federal government should only have four ministries like Defence, Foreign Affairs, Communication and Finance and rest of the portfolios be handed over to the provinces. He promoted his argument with the agreement that was made in Movement for Restoration of Democracy (MRD) meeting where PPP was a part of MRD at the time.<sup>38</sup>He also talked about the education system of Pakistan that was divided into numerous segments and factions, and urgently needed uniformity.<sup>39</sup>He pointed out the failure of the current political system that did not offer equal chance of participation to the poor and talented. He asked for, its immediate overhauling. He was openly critical of the 8<sup>th</sup> Amendment and demanded that it must be removed from the constitution.<sup>40</sup>

Sheikh Rasheed Ahmad criticised the government on relationship with India and condemned the government's support of India against Nepal in SAARC conference.<sup>41</sup> He also censured

government on un-employment and on large cabinet. Syeda Abida Hussain favoured the opinion of Khan Wali Khan on the division of powers between the federation and the provinces in the following words:

“I have no hesitation in saying that I am a Pakistani who believes that because we have had a neo-colonial State, an over expanded and over developed centre has been enforced on us. We have, therefore, reached a situation today where our democratic and socio-economic development needs strong provinces and a weak centre.”<sup>42</sup> She expressed her feeling on 8<sup>th</sup> Amendment and suggested that it should not be erased as a whole, as there were eight sub portions and some were quite important and relevant.

She articulated her observations in the following manner: “I have to say this and you (already) know that, if we strike off the 8<sup>th</sup> Amendment altogether, the honourable, very eloquent and quite capable minister of state for information would lose his jobs.”<sup>43</sup> She also emphasised the sanctity of the constitution and said that frequent alterations would be dangerous to our motherland. She criticised the government on the violation of constitution and alleged that government had un-constitutionally dissolved the Baluchistan Assembly. She further stated that historically the government had always treated the opposition unfairly, and even very praiseworthy parliamentarians such as Mufti Mahmud were thrown out of the premises of the Assembly by the government of that period. Moreover, several amendments were forcefully made in constitution. On the 8<sup>th</sup> Amendment she opined that government should also repeal the amendments that were agreed upon by Zulfikar Ali Bhutto and Pakistan National Alliance (PNA).<sup>44</sup> She also commented on the foreign policy of Pakistan and blamed the government that in SAARC summit, it made an agreement with India that should have been debated in the House. She further alleged that several important issues like Kashmir and *Siachin* had been ignored and put into cold storage. On Afghan issue, Pakistan had not rights to declare Geneva (Switzerland) accord without the permission of freedom fighters that had genuine rights to settle the issue according to their will and

wish.<sup>45</sup> On Kalabagh issue, she admitted that it should be constructed and provincial autonomy be granted. The industries that had been established by the capital of British government should be nationalized. Education reforms were needed so that the gap between haves and have-nots could be eradicated.

Interestingly, the opposition was divided on the 8<sup>th</sup> Amendment as some were strongly supporting the said amendment. One of them, Chaudhry Abdul Ghafoor was fully supporter of that amendment and indicated that the 8<sup>th</sup> Amendment had been constituted in the light of 1977 syndrome. Since 1973 constitution was one sided and it had granted unrestricted power to the Prime Minister that enabled him or her to become a dictator. He supposed that he had a right to disapprove the constitution of 1973 as the assembly that had made the constitution was not chosen for that determination. It was rather elected under the Martial law Order No. 14, the so called Legal Framework Order (LFO).<sup>46</sup>

Benazir took charge of the Office of the Prime Minister of Pakistan on December 2, 1988 and previous era policies continued while opposition was not ready to spare the government. In a nutshell, the opposition criticised the government during the debates on president's address but its focus was government, not the president's speech. On the other side, government also defended their policies and criticised the opposition's such debates.

#### **2.4- Resolution Against Publication of The Book *Satanic Verses***

When Salman Rushdie's book *Satanic Verses* was published, it caused uproar in the Muslim world. In Pakistan demonstrators came out in thousands.<sup>47</sup> Rushdie was an Anglo Indian novelist who born in Bombay, United India, in a middle class Muslim family on June 19, 1947. He wrote many novels but his fourth novel *Satanic Verses* (1988) was the centre of the major controversy. After publishing *Satanic Verses*, he was condemned to death by former Iranian spiritual leader Ayatollah Ruhollah Khomeini (1902-1989) on February 14, 1989. That book was against the beliefs of Muslims and had the image of the last Prophet Muhammad (PBUH). In Pakistani parliament, Nawabzada Nasrullah Khan moved the

resolution against the book and demanded the government to ban the publisher, Penguin Publishers, in Pakistan until it withdrew all published copies of the book and apologized before the entire Islamic world. Government should also use their influence on United States of America (USA) and United Kingdom (UK) to stop that book from further publishing.<sup>48</sup> The Motion was adopted by the government without any opposition. In his book, Salman Rushdie had used very derogatory remarks and language against the last Prophet (PBHU) and his family. Nawabzada Nasrullah Khan elaborated that it was the first time in the history that such a profane book was written by an author who called himself a Muslim. However, in reality, the Jewish lobby was behind the conspiracy. Through the book they wanted to break the beliefs of Muslims in Last Prophet Muhammad (S.A.W.W.). Nawabzada also mentioned the protests by the British Muslims that forced the government of UK to withdraw all the copies of that book from the United Kingdom markets. However, in the USA, the book had been published the second time. Previously when such blasphemous books were published like the printing of “Death of Princess” in the UK, Saudi Arabia cut off the diplomatic relations with the UK. As a result, the UK government banned the book and formally apologized to Saudi Arabia. Nawabzada Nasrullah Khan demanded that Pakistan must follow the Saudi response and should cut off diplomatic relations with the USA and the UK for a resolution of this issue.<sup>49</sup> The Opposition demanded that government should send commandos to the UK to extract Salman Rushdie<sup>50</sup>.

Syed Iftikhar Hussain Gillani, Minister for Law, said that the resolution should be according to the International Law and for that determination it should be worked on first before submission but opposition was not ready to accept any delay. Mawlana Fazal-ur-Rehman supported the resolution and further described the importance of Last Prophet Muhammad (S.A.W.W.) in the light of the Quran and Hadith. He also asked for banning it in Pakistan. Mawlana Abdul Sattar Khan Niazi was also a strong supporter of the resolution and demanded the government to cut off diplomatic relations at once with UK and



USA.<sup>51</sup> Mawlana Shaheed Ahmed, Begum Aamira Ehsan and Chaudhry Abdul Ghafoor also strongly supported the resolution. Chaudhry Abdul Ghafoor stated that in India the book as well as publisher had been banned, and as a Muslim country, it was our obligation to do more than that.<sup>52</sup> In this regards, both the government and opposition were united, and their collaboration in the absence of any other opposition, resulted in the admittance of the resolution.

## **2.5- Firing on Demonstrator's Procession Against the Book of Satanic Verses**

On February 13<sup>th</sup>, 1989 as Benazir Bhutto landed back in Pakistan after visiting China; she received some grave news about what had happened in Islamabad. A demonstration procession against the *Satanic Verses*<sup>53</sup> that was organized by Mawlana Kausar Niazi and some other parliamentarians became violent and after burning down American flag tried to attack the American Culture Centre in Islamabad.<sup>54</sup> The police opened fire that resulted in five fatalities and over 60 injured. The book had been published a year back and was already banned in Pakistan. The opposition and religious parties tried to destabilise the government on this issue but could not succeed and within a few days the movement became passive.<sup>55</sup> The opposition moved the privilege motion for debate in the parliament. Mawlana Abdul Sattar Khan Niazi alleged that government perception was that government had taken that brutal action according to the law and opposition perception was that the action was unconstitutional so it needed to be debated in the National Assembly. Mian Muhammad Usman said that the question should be settled straight away. Mawlana Fazal-ur-Rehman, Nawabzada Nasrullah Khan and several others demanded that the issue must be resolved as a top priority.

Minister of State for Parliamentary Affairs, Khwaja Ahmed Rahim Tariq stated that the issue could be settled through privilege committee or judiciary and a High court Judge could be appointed for that purpose.<sup>56</sup> Opposition alleged that the government had defended the administration which was very hurtful and unacceptable. Furthermore, the media also

violated the democratic norms and traditions and printed the news in which the demonstrators were labeled as ‘agitators’ or *sharipasand* elements.<sup>57</sup> Mawlana Abdul Sattar Khan Niazi stated that they had started a similar movement against the Khizr Hayat government in 1947 but that government did not treat them like the current government. He further said that during their war against *Ahmedis*, and struggle for the implementation of Islamic system in 1977, they faced stiff opposition but nothing like recent brutality. The opposition demanded the registration of First Information Report (FIR) against the involved police officers and also demanded the resignation of the Interior Minister.<sup>58</sup> The government side was defended by Ahmed Saeed Awan and he said that government was ready to suspend the concerned police officers but it would be grave injustice to do so before any inquiry as it would be against the supremacy of law. Umer Hayat Laleka raised the question that if the concerned officer remained in office than how could the inquiry was unbiased. In the last hearing, the Speaker of the National Assembly established a Special Committee for the settlement of the dispute. The Special Committee consisted of twenty three members of parliament however Chaudhry Abdul Ghafoor, an opposition member, alleged that all members belonged to the treasury benches. However, Ahmed Saeed Awan explained that only fourteen members were from Government side and the rest were from opposition benches but the opposition still opposed the committee on the basis of its composition. Nonetheless, a committee was shaped on that issue.<sup>59</sup> Later on, opposition expressed their grievances on committee before the press. Sheikh Rasheed Ahmad elaborated the position of IJI in the House and said that IJI had 74 members in the National Assembly, so their share in the committee was to be represented by 12 members. However, the government did not offer equilibrium in the committee and assigned majority members to form the treasury benches. Ahmed Saeed Awan moved the privilege motion in the House against the press conference of the opposition. Law Minister also favoured the motion of the mover and stated that

opposition had injured the image of the House through press conference. He further emphasized his argument in the following words:

“Sir more classic example, a more classic illustration more classic incident of breach of privilege of this sovereign Parliament of Islamic Republic of Pakistan, which constituted a special committee on the request of the people who then went out of the precincts of this sovereign Parliament and made fun of that committee and made fun of this parliament.”<sup>60</sup> Ahmed Saeed Awan, the mover of the motion, also quoted from the Practice and Procedures of Parliament, page 223, “Approaching an outside against any decision of the House is tantamount to reflection on the decision of the House and consequently contempt of the House. If a member is not satisfied with a decision of the House, the proper course for him is to move the House itself to rescue its decision.”<sup>61</sup>

He further, enlightened that opposition had offered the name of their member Attiya Inayatullah that was recognized and included in the committee then why did the opposition take that unauthorized action. It was a grave contempt of the House if anybody created obstacles in the way of the committee’s work, and that the opposition would openly take such illegal actions. The opposition member Nawabzada Nasrullah Khan elucidated his position that he had never said that we were establishing a parallel committee. Rather we had said that the committee should be balanced.<sup>62</sup>

Dr. Attiya Inayatullah also quoted the Practice and Procedure of Parliament page 242 to support her position, “Before making a complaint against a member a notice is given to him. It is a matter of courtesy. Furthermore, when a member seeks to raise a question of privilege against another member, the speaker as already stated before giving his consent to the raising of the matter in the House, gives an opportunity to the members complained against to place before the speaker such facts as he may on the question.”<sup>63</sup> However, the mover of the motion Ahmed Saeed Awan withdrew the motion and accepted the explanation of

Nawabzada Nasrullah Khan. At least in this case, the government's approach was accommodating and reconciliatory.

## **2.6- Discussion on Major Foreign Policy Developments**

The end of cold war as well as Russian withdrawal from Afghanistan had brought great change in the foreign policy of Pakistan. The priorities of the US had changed and Pakistan's importance for USA was diminished in that context.<sup>64</sup> Secondly the relations with India on Kashmir continued to fester and struggle for developing nuclear weapons was at peak in the region. In such condition, Pakistan wanted to rethink over her foreign policy.<sup>65</sup> Opposition had asked that the foreign policy must be debated in the House and government accepted the demands. Byram D. Avari appreciated the government's policy and congratulated the government on the prodigious and tactful handling of Afghanistan *Shoora* and the Afghan situation at the time. Pakistan government's tolerance in politics had been extended to foreign policy as well.

The success of the Afghan policy lifted Pakistan's international image which resulted in releasing of grants from various countries. As announced in newspapers earlier, Japan made available a grant of 10833 million yen for the import of wheat and other essential commodities. Australia's 25000 tons of wheat worth 5.33 million and the Canadian government's grant of wheat to Pakistan was an indicator of international support to Pakistan.<sup>66</sup> Pakistan's geopolitical position made it pleasing to the International community including the USA and the Western bloc and continued support was expected from them. Although, MQM and ANP were coalition partners of the government, but both were against Afghan policy and favoured good relations with India. ANP was against the interference of ISI in Afghanistan and Khan Wali Khan openly criticised the government over that issue. He said that ISI was creating problems and difficulties in Afghanistan as well as in Pakistan especially for the people of NWFP (Khyber Pakhtunkhwa).<sup>67</sup> Abdul Khaliq, an MNA belonging to ANP warned that if Pakistan was to take sides & support in Afghan civil war

that would be very dangerous for the masses of Pakistan.<sup>68</sup> ANP bitterly opposed Benazir Bhutto on continuing Zia's policies regarding assistance of Mujahideen, as military still had full control over the foreign policy.<sup>69</sup> In fact foreign policy was in the hands of foreign minister Sahabzada Yaqub Khan that was appointed by the establishment and was very close to General Muhammad Zia-ul-Haq. Majority of PPP members wanted a settlement of Afghanistan issue because without it army posed great danger for the current government and for the future of democracy in the country.<sup>70</sup>

Khan Abdul Wali Khan had demanded that the governor of Khyber Pakhtunkhwa should be from ANP but the US and army did not like Wali Khan.<sup>71</sup> Kunwar Khalid Younis, from MQM expressed his opinion on the foreign policy and claimed that it along with the war in Afghanistan had introduced in our society a culture of weapon and menace of drugs. Sardar Ashiq Muhammad Khan Mazari also made a statement supporting the government and talked about the achievements of the government. The aim of any country's foreign policy was to safeguard the integrity and independence of that country. In that regard the government had achieved that target with great success and without any submission to any superpower's self-interests. He mentioned the policy of Zulfikar Ali Bhutto who was a beacon of light for PPP. ZA Bhutto was the first man to seek Russian collaboration in all areas. It was the first policy of non-alignment and real independence, away from any superpower's influences; from the bloc, and away from the sad story of getting Pakistan in organizations such as SEATO and CENTO which were not only a disgrace to our national honour but also compromised our respect and honour before our friends in the Arab world. It was a great achievement of ZA Bhutto's policy.

The current opposition staged strong protests against government's foreign policy. Hafiz Hussain Ahmed stated that Pakistan came into being in the name of Islam but unfortunately our first foreign minister was an Ahmedi. From; that day our foreign policy was doomed. Pakistan had unique position in the world and it could perform a role of the leader of the

Muslim world but alas the government was not serious in that context and had nominated the diplomats on political basis while their appointment should be on merit basis so that the whole country's performance could be improved.<sup>72</sup>

Mawlana Abdul Sattar Khan Niazi highlighted the issue of Kashmir and alleged that the government was not serious during the SAARC summit and also blamed the government on developing relationship with the USA and the western world. According to him, the government had failed in protecting the interests of Pakistan and Muslim world. Rajiv Gandhi (1944-1991); the Prime Minister of India had come to Islamabad to attend SAARC summit, and the President of Azad Kashmir, Sardar Abdul Qayyum Khan (1924-2015), announced that he would organise a protest procession but the government did not agree to that. However, the government later granted permission on the grounds that the protest should be held in Rawalpindi and far away from Gandhi's hotel.<sup>73</sup>

IJI declared Benazir Bhutto a pro-Indian Prime Minister, just like in their elections campaign when they called her an 'agent of the Jews and Hindus',<sup>74</sup> While Benazir Bhutto adopted an anti-Indian policy in order to defend herself against criticism,<sup>75</sup> the opposition walked out of the House complaining about allocation of insufficient time. Opposition raised objections before the speaker of National Assembly that sufficient time was not being given to opposition by the speaker. It appeared that the confronting politics was still going on and opposition was not ready to spare the government. On the other side, the government was also not showing any flexibility in their attitude.

## **2.7- Kabul's Scud Missiles Aimed at Pakistan's Major Cities**

In the National Assembly of Pakistan, a private member had the right to move an adjournment motion in the Assembly. It had to be about a very serious issue that was why ordinary procedure was suspended in the House. In the history of Pakistan, first adjournment motion was moved by D. N. Dutta, from Congress Party in 1948.<sup>76</sup>

Raja Zaheer Khan presented an adjournment motion in the House. According to the newspaper reports, the Kabul administration had installed about a dozen of scud missile near the Pakistani border, and aimed at major Pakistani cities. It was a very serious issue of national security, so the speaker adjourned the ordinary procedure of the Assembly and admitted the motion for debate. Sheikh Rasheed Ahmad and Ghulam Haider Wyne supported the motion. Sheikh Rasheed Ahmed highlighted the statement of Afghanistan in which she had exhibited the enmity towards Pakistan. He demanded that Pakistan might counter measure to ensure the security of the country.<sup>77</sup> Syed Amir Haider, the Minister for health, Syed Zafar Ali Shah and Muhammad Arif Awan opposed the motion on the grounds that the Afghan issue had been debated already and it did not need any further discussion. Syed Amir Haider Shah had clarified his views in the following words:

“I assure the respectable members that the government is aware of issue of missile installations and Pakistan government has kept the reasonable measurements. Furthermore the government will take all steps necessary for the defence of Pakistan.”<sup>78</sup>

Interestingly, the opposition accepted the assurances offered by the government and withdrew motion. At least on these issues, the government and opposition seemed united and revealed some promising cooperative conduct.

## **2.8- Law Minister’s Statement Regarding Dissolution of the House**

Syeda Abida Hussain had moved a privilege motion against the statement of the law minister that he had made in the newspapers *Jang* Lahore on February 24, 1989 in which he had said that if the Parliament did not favour the decision of the repeal of the 8<sup>th</sup> Amendment then the Prime Minister would advise the President to dissolve the National Assembly. It was a clear attempt at intimidating the members of the National Assembly for adopting a particular course of action in the Assembly i.e. endorse the repeal.<sup>79</sup> She said that according to the established parliamentary practices any attempt to intimidate members in their parliamentary conduct was to be regarded as contempt of the House.

She quoted Parliamentary practices page 143: “It may be stated generally that any act or omission which obstructs or impedes either House of Parliament in the performance of its functions or which obstructs or impedes any members or officer of such house in the discharge of his duty or which has a tendency, directly or indirectly as contempt of the offence.”<sup>80</sup>Raja Zaheer Khan, Sheikh Rasheed Ahmad, Ghulam Haider Wyne, Hafiz Hussain Ahmed and Chaudhry Muhammad Ashraf supported the opposition member Syeda Abida Hussain’s motion and called the Law Minister’s statement a clearly violation of the Constitution.

On the other side Syed Iftikhar Hussain Gillani (Minister for Law) admitted his mistake and presented his view regarding the issue that the constitution gave two options: either dissolve the Assembly or hold a referendum. He said “I assure all the honourable members, if there has been any misunderstanding, I am sorry for that I assure them and I am again grateful to the honourable members who brought the matter in the House.”<sup>81</sup>The opposition cooperated with the government after this clarification and withdrew the privilege motion. Syeda Abida Hussain the mover of the motion expressed her views in these words: “As far as the admissibility is concerned with respect I do not press my motion in the view of the honourable minister clarifying that his statement was somewhat different to the way it was printed in the Urdu newspaper.”<sup>82</sup>However, Sheikh Rasheed Ahmad and Ghulam Haider Wyne did not agree with Syeda Abida Hussain’s interpretations and wanted to persevere with the motion but the Speaker ruled out the privilege motion.

## **2.9- Failure of Radio and PTV to Give Adequate Coverage to Opposition Members**

Nawabzada Nasrullah Khan moved a privilege motion concerning press coverage of the opposition in the national media. He elaborated that the opposition also had equal rights as those of the government but the present government was not ready to give the opposition its due rights. The government had claimed that the media would be completely free but alas opposition was neglected and the government run media did not cover the major events and



activities organized by the opposition like its protest procession against *The Satanic Verses*. He lamented that the government did not give the opposition any time on the media. He claimed that the government had terminated the officials who had included news about the opposition in the media's coverage. Sheikh Rasheed Ahmad supported the opposition's motion and elaborated the significance of the media. He quoted the words of Benjamin Franklin "Democracy is not merely the rule of majority but also a projection for the rights of the minority."<sup>83</sup>

Chaudhry Aitzaz Ahsan opposed the motion and quoted the Kule procedure page 236: "No breach of Privilege is involved if a member's speech has not been covered in full or has been covered in a summary from in a press or over the Radio or TV (Television). It is also not a breach of privilege if a particular speech is not covered as adequately as speeches or is not given prominence."<sup>84</sup> The Speaker did not admit the opposition's standpoint and ruled out the privilege motion. It may be commented that the government's attitude in that case was totalitarian because both the opposition and the government had a right to coverage by the press.

## **2.10- Prime Minister's Directive to Give Preference to *Sindhis* in Jobs**

Raja Zaheer Khan, an opposition member, moved an adjournment motion in the National Assembly of Pakistan on the issue of the Prime Minister's directive to the Secretary Establishment Division in which the Prime Minister had instructed that the *Sindhi* candidates must be preferred in services. Sheikh Rasheed Ahmad, Syeda Abida Hussain and several other opposition members supported the motion. Sheikh Rasheed Ahmed quoted the following parts of Prime Minister's letter: "On a summary submitted to the Prime Minister regarding grievances of the people of Sindh, the Prime Minister had been pleased to observe as under: "Special efforts should be made for recruitment from Sind in Government and autonomous bodies."<sup>85</sup> He claimed that the Prime Minister had violated the law in passing this order. Syeda Abida Hussain termed it a "clear cut violation of constitution"<sup>86</sup>and quoted

the constitutional Article 27 to substantiate her point of view: “No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment or the ground of race, religion, caste, sex, resident or place of birth.”<sup>87</sup>Chaudhry Abdul Ghafoor also mentioned article 25 of Constitution of Pakistan that explains the equality of the citizens and termed the Prime Minister’s order against the law and harmful for the federation of Pakistan. The treasury benches opposed the motion under Rule 66(2) and the Speaker did not admit the motion citing 66 (2). He said that privilege motion was granted to the member for the performance of his duty in the House. The Speaker ruling out the motion showed lack of flexibility on part of the government. Consequently, again stubbornness was shown at that time.

### **2.11- Ordinances Presented Before The National Assembly**

Another factor that undermined the authority of the Parliament was Ordinance. This power was designed to be exercised in an emergency particularly when the Parliament was not in session. During the year 1989 fourteen Ordinances were ratified by the Parliament.<sup>88</sup>Khwaja Ahmed Tariq Rahim presented ordinances as required by Article 89(2) in the National Assembly of Pakistan. Opposition member, Chaudhry Abdul Ghafoor, took a stance against those Ordinances and pointed out that as the National Assembly was in session the Ordinances could not be imposed. He pointed out that the provision of Ordinances was to tackle emergency situations when the Parliament was not in session or had been dissolved. Speaker favoured the opposition’s stance on ordinances. In the presence of the assembly the ordinances must be curtailed to a least number as there was genuine urgency of the matter to be put in the form of legislation, “This I do agree with; and in the parliamentary system; this is the first requirement that there should be trial that the least ordinances may be implemented. And it would really create trouble for us. That is why we are not doing legislation since so many months. However, we should not depend upon ordinances.”<sup>89</sup> The opposition parties attended a meeting in the committee room of the National Assembly of

Pakistan where they decided that the opposition would adopt a common strategy against the government. IJI, National Peoples Party (Khar Group), NPP (Jatoi Group), JUP, BNA and independent member Syeda Abida Hussain attended the meeting.<sup>90</sup> The opposition alleged that the government could not table suitable legislation in the Assembly in spite of the opposition's cooperation.<sup>91</sup> The opposition had assured the government of its support for running the business of the House but despite that the government was not serious in legislation. Chaudhry Abdul Ghafoor told a press conference that the government had not brought any legislative work before the Assembly for the last four months.<sup>92</sup> This, he asserted, showed that the government was working against strengthening the Parliament. However, despite that all the ordinances were ratified by the Parliament.

## **2.12- The Islamabad Rent Restriction Bill-1989**

In December, 1988 the National Assembly referred the Islamabad Rent Restriction Bill to the Select Committee and directed the Committee to present its report within 15 days.<sup>93</sup> The Select Committee consisted of eight members.<sup>94</sup> Sheikh Rasheed Ahmad moved the Bill but Dr. Sher Afgan Khan Niazi opposed the bill in the National Assembly. The mover of the Bill described the importance of the bill and called it the best piece of legislation for the poor people as it would protect the people against exorbitant rents demanded by the landlords. He asked the government not to oppose the bill to save the people from exploitation. Raja Pervaiz Khan pointed out that a similar bill had been approved by the Cabinet Division so the opposition member's bill was redundant. Dr. Sher Afgan said that the bill lacked the appropriate provisions therefore could not be accepted. The bill was rejected by the government.<sup>95</sup> Sheikh Rasheed's second bill about land acquisition by the Capital Development Authority too was not acknowledged by the government. Opposition members like Chaudhry Muhammad Ashraf and Syeda Abida Hussain supported the bill and Syeda Abida Hussain expressed her views on the bill. She said that Tuesday as per the parliamentary convention, had been set as the private members' day and on private

member's day every member had a right to move a bill. But the government did not consider the bill, and the motion was turned down.

### **2.13- The Dowry and Bridal gifts (Restriction Amendment) Bill-1989**

Syeda Abida Hussain moved the bill and government without any discussion sent it to the Standing Committee.<sup>96</sup> Her second bill Promotion and Preservation of the crafts Bill, 1989 was also accepted by the government and was sent to the Standing Committee. Government and opposition made collaboration in that context.

### **2.14- Migration of Non Sindhis from Rural Sindh**

In Pakistan there was ethnic tension in many regions but in Sindh the ethnic issue had been very complex.<sup>97</sup> The ethnic issue arose in Sindh on development of modern canal system in 1890 when *Punjabis* and other non-*Sindhis* started settling there for farming and business.<sup>98</sup> However, the arrival of migrants from India (*Muhajirs*) created ethnic tensions as they were granted land in Sindh in lieu of the land they had in India.<sup>99</sup> The *Sindhis* lagged behind in education and were not represented in the government's institutions. The *Sindhis* generally felt that they had been dealt with unfairly as they did not have representation in the higher echelons of power. Ayub Khan's decision to ban *Sindhi* as the medium of instruction in the province aggravated the sense of deprivation among the *Sindhis*.<sup>100</sup> The grievances came out as ethnic violence in the whole of Sindh and Karachi at one point came to be called 'Little Beirut'. In such circumstances the head of the MQM Altaf Hussain requested the President to save *Muhajirs* and non *Sindhis*<sup>101</sup> although the MQM was a coalition partner of the government through the Karachi Accord. The MQM and the PPP agreed to support democracy as well as to roll back the quota system that favoured the *Sindhis* over the *Muhajirs*.<sup>102</sup> The *Sindhis* feared that the *Muhajirs* and non *Sindhi* were converting them into a minority in their own cities. They feared that a new form of the One Unit idea may be imposed on them to establish the hegemony of the Punjab.<sup>103</sup> Waseem Ahmed (MQM) moved an adjournment motion on the issue of Sindh migration. He claimed that the *Muhajirs*

and non-*Sindhi* were being expelled from Sindh against their will. He opined that this forced migration would prove to be destructive for Pakistan. He said that the ethnic issue was being fanned by elements that wanted to create a separate State *Sindho Desh*.<sup>104</sup> He said that the *muhajir* families did not feel safe in Larkana, Dadu, Hala, Moro, Nawab Shah, Shikarpur, Mirpur Mathelo etc. He claimed that even children, women and elders were being targeted. He lamented that the state machinery was insensitive to the misery of the non *Sindhis*.

He quoted an article of the constitution to make his point, “Article 15 every citizen shall have the right to remain in and subject to any reasonable restriction imposed by law in the public interest, enter and move freely throughout Pakistan and to reside and settle in any part thereof.”<sup>105</sup> Syed Zafar Ali Shah opined that though the issue was emotional it should be deliberated upon rationally and that it was not limited to just Sindh. He added that the issue could not be discussed in the National Assembly as it was a provincial issue. The MQM being a partner in the Sindh government meant that the MQM stood in a position to resolve the issue in Sindh. Although the mover of the motion was not from the opposition but the opposition fully supported him. Chaudhry Muhammad Ashraf, Dr. Muhammad Rafique, Syed Tariq Mehmood and Begum Zareen Majeed supported the motion. However the Interior Minister Atizaz Ahsan opposed the motion on a technicality and mentioned that rule 80 did not allow the issue to be considered in the National Assembly as it did not concern the federal government. But Syed Amin-ul-Haq, Begum Zareen Majeed and Ghulam Haider Wyne tried to prove that it was not merely a provincial matter and that under the articles 15 and 48(3) it could be discussed in the National Assembly. Opposition member Chaudhry Abdul Ghafoor highlighted the relevant constitutional Article 148(3) in these words: “It shall be the duty of the federation to protect every province against external aggression and internal disturbances.”<sup>106</sup> So when provincial government failed the entire responsibility would shift to the federal government. The Speaker reserved the decision which was an instance of non-cooperative attitude on the part of the government.

## **2.15- Council of Islamic Ideology**

Council of Islamic Ideology (CII) was a constitutional body tasked with providing the parliament insight into religious issues for legislation.<sup>107</sup> Under the Article 230 it had a number of functions but one of the basic functions was to provide advice to the parliament, provincial assemblies as well as other administrative cum legislative bodies of the country regarding Islamic injunctions. Ayub Khan had established the first institution of this kind in 1962 with the name of Advisory Council and first chairman was Retired Justice Abu Saleh Akram. Chaudhry Abdul Ghafoor raised a question of breach of privilege of the Assembly and its members. Under Article 229 of the Constitution of Pakistan, Ideology Council was necessary because it provided consultation during the legislation whether the proposed legalisation was in accordance with Islam or not. He said that the tenure of council members had ended in May, 1989 but still the council had not been established. In the absence of the council the assembly could not continue its function under Article 229. He said that this was a serious issue and must be debated at the forum of the Assembly.<sup>108</sup> He also mentioned article: “There should be constituted within a period of 90 days from the commencing day of a Council of Islamic Ideology, in this part referred to as the Islamic council.”<sup>109</sup> He said that the Assembly had failed in its duty to make sure the Islamic Council was constituted to guide the legislative process. Sardar Mansoor Hayat Tamman stated that in his constituency 99 % people were Muslims and he needed the guidance of the Council of Ideology to legislate for his constituents. The Minister for Religious Affairs Khan Bahadur Khan admitted the importance of the Council and promised that the government would constitute it on urgent basis. He said, “The Islamic Council shall submit its final report within 7 years of its appointment.”<sup>110</sup> But council came into being in 1974 and up to now council reported was not scrutinized by anyone.<sup>111</sup> But opposition member Chaudhry Abdul Ghafoor countered the statement of Minister and said that there was lot of reports in the house that was presented by council to House.

He further elaborated the duties of Council through article 230(2) in below words: “When under Article 229, a question is referred by House a provincial Assembly, the President or a Governor to the Islamic council, the council shall, within fifteen day thereof, inform the House, the Assembly, the president or the Governor, as the case may be, the period within which the council expects to be able to furnish that advice.”<sup>112</sup>”

However, the opposition acknowledged the clarification of the Minister and withdrew the motion.

## **2.16- Construction of Wullar Barrage**

The water dispute had arisen with India at the time of partition in 1947 when British government had granted areas to India where rivers flew into Pakistan. The West Punjab (Pakistan) irrigation depended on thirty canals and six rivers including the Indus River.<sup>113</sup> On April 1, 1948 India shut off the water flowing into Pakistan that was flowing through Ferozpur Headworks East Punjab India. This created a tremendous fear in Pakistan and threatened Lahore including 1.65 million acres agriculture land.<sup>114</sup>The rivers Indus, Jhelum and Chenab flew into Pakistan from Kashmir while rivers Ravi, Beas and the Sutlej entered into Pakistan from India.<sup>115</sup>The water issue was settled through Indus water treaty with India on September 19, 1960 with the special assistance of the World Bank.<sup>116</sup>According to the treaty India had admitted rights of Pakistan on three rivers i.e. Jhelum, Indus and Chenab and admitted that India would not hold of water these rivers. Moreover, no dams would be constructed on those rivers by India.<sup>117</sup>In spite of the agreement India started construction on Wullar Barrage on the Jhelum River that was illegal. Opposition members Raja Muhammad Zaheer, Mian Muhammad Usman, Haji Fazal Razzaq, Sahabzada Fateh-e-Islam, Haji Javed Iqbal and Aamra Ihsan accused the government of supporting India in constructing Wullar Barrage on Jhelum River. Moreover, the government had approved the design of barrage that would be very harmful for the country. He claimed that the federal government was favouring India just to spite the Punjab government.<sup>118</sup>The opposition vowed that it would

raise voice against the government in the Assembly as well as outside the Assembly.<sup>119</sup> However, the motion of the opposition was killed in the Speaker's chamber by speaker of the National Assembly. She explained the significance of the issue and asserted that through the barrage India wanted to destroy Pakistan by converting its agricultural fields into deserts. She bemoaned the government's lax attitude regarding the matter and opined that the government's actions amounted to a violation of the Indus Treaty.<sup>120</sup> But Dr. Sher Afgan Khan Niazi rejected the perspective of the opposition member and mentioned that the speaker had already decided the motion so it could not be admitted again. He quoted S.S Moore page 117: "No appeal anyone aggrieved by or disagreeing with the ruling cannot appeal to the House to set it aside. The House though otherwise sovereign, cannot dissent from the same."<sup>121</sup>

If the member was not satisfied with the Speaker then he could move a motion for the removal of the Speaker. Chaudhry Abdul Ghafoor alleged that the government was giving up its claims to please India. He said that the government was shying away from discussing the issue as it did not have adequate knowledge on the issue. He appealed that technicalities should be put aside to discuss the issue of national importance. Many others like Mawlana Abdul Sattar Khan Niazi and Chaudhry Amir Hussain supported the opposition's stance. Mian Zahid Sarfraz also questioned the impartiality of the Speaker of the National Assembly. He said that in parliamentary convention and tradition after his or her election, Speaker became a non-party member for running the business of the House but unfortunately that was not the case in the current assembly.<sup>122</sup> Sardar Farooq Ahmed Khan Leghari (1940-2010), Minister of Water and Power clarified the position of the government and said that government had taken the issue up with India as it felt that India had violated the treaty. He pointed out the violation did not start during their government and that the construction had started in 1985 and India completed 50% of the construction during 1985 and 1987. He pointed out that the government's efforts had forced India to abandon the project. He



accused the opposition of hurting the interests of the country for by not discussing the issue in the Speaker's chamber as the government had offered them.

## **2.17- Adjournment Motion Re- Desecration of National Flag at Sukkar Airport**

G. M Syed was a nationalist politician of the Sindh province and his politics was centered on anti-establishment as well as anti-Pakistani State views. He was a strong supporter of *Sindho-Desh* a separate State for the *Sindhis* in Pakistan. He had formed the *Jiye Sindh Mahaz* in June, 1972. Through the *Jiye Sindh* platform he demanded maximum autonomy for the province. He demanded that the *Sindhi* language be adopted as the medium of instruction in *Sindhi* institutions and twenty five percent seats in institutions be reserved for the *Sindhis*. He was strongly against non-*Sindhis* and wanted to retrieve all land and property that had been allotted to non *Sindhis*.<sup>123</sup> G. M Syed had labeled Z. A Bhutto an 'Agent of the *Punjabi-Muhajirs*' in *Sindh*.<sup>124</sup> His opposition to the non-*Sindhis* was so strong that he even proposed guerrilla warfare for establishing separate State.<sup>125</sup> Later on, when Hamida Khuhro (1936-2017) joined his party, the party moved away from its separatist stance and demanded more rights within the Pakistani State. She had supported the MQM during the period of 1983-1986.<sup>126</sup>

But Khuhro too, did not support the Constitution of Pakistan, 1973 because she felt that it resulted in a strong federal centre at the expense of the federating units. Raja Muhammad Zaheer Khan had moved a motion regarding Sukkar airport incident in which the *Jiye Sindh*'s worker had burnt Pakistan's flag and had hoisted their flag in its place. The incident was deemed to have been commented at India's behest.

He alleged that Benazir Bhutto had gotten vote on four slogans;

1. Provincial autonomy
2. PPP would terminate Kalabagh dam Project.
3. The army cantonments would not be set up in the Province of Sindh.
4. *Biharis* would not settle in the Sindh province.

The opposition claimed that the *Jiye Sindh* ideology was not hidden as it had been published in a number of forms and that the literature containing the party's ideology is absolutely against Islam and Pakistan. The opposition urged the government to take up the issue as a top priority and arrest those involved in the heinous crime.<sup>127</sup> Syeda Abida Hussain strongly condemned the incident and alleged that the government itself was involved in the incident. She referred to a similar incident when Khan Abdul Wali Khan was accused of burning the Pakistani flag upon his release from Hyderabad Jail whereas it was the government agencies which had set the flag on fire to defame Wali Khan. She claimed that through orchestrating the Sukkur incident the government had wanted to divert the people's attention from pressing issues like the Baluchistan issue, Punjab federal controversy and common interest council issue.<sup>128</sup> Mawlana Shaheed Ahmed also accused the government of involvement. He said that G. M. Syed had been emboldened by Benazir Bhutto laying a wreath on the grave of *Mukhti Bahini*. Mawlana Abdul Sattar Khan Niazi termed it a national tragedy that the government and the opposition should tackle jointly. Aitzaz Ahsan said that G. M. Syed had been opposing Pakistan for the last 40 Years. He informed the House that in 1946 G. M. Syed opposed the Muslim League candidate from Sindh. Qazi Akbar defeated G. M. Syed. Qazi again defeated G. M. Syed in 1970 elections and Qazi's grandson was the law minister in the PPP's incumbent government in the Sindh province. He asked that G. M. Syed's facilitators should be looked at. He was driven by Haider Ali Talpur, the son of Ali Ahmed Talpur the former defence Minister in General Muhammad Zia-ul-Haq government. G. M. Syed had stayed in Elahi Bukhsh Soomro's house, who was a former minister of the previous government. G. M. Syed had dined with Ghulam Muhammad Mahera former candidate of the IJI.<sup>129</sup> The opposition had close relations with *Jiye Sindh* so it could not blame the PPP government for complicity with Syed. He also assured the house that the government would take action under the law.

## **2.18- Grant of Funds to PPP Members of the National Assembly**

The corruption in the body politics of Pakistan was not a new phenomenon. It had been there since the birth of the country. However, it had never been so prevalent during the period of 1988-1999. Both the governments of Benazir Bhutto and Nawaz Sharif were dismissed on charge of corruption, mismanagement and nepotism.<sup>130</sup> A Privilege motion by the opposition regarding the statement of senior federal minister was moved by Syeda Abida Hussain, Mansoor Hayat Tamman, Dr. Attiya Inayatullah, Hafiz Hussain Ahmed and Lieutenant-General (R) Abdul Majeed Malik. The question arose out of the published proceedings of a meeting of the PPP chaired by Begum Nusrat Bhutto (1929-2011) in which she had attributed secessionist tendencies to the province of the Punjab. In that meeting it was also decided that members of PPP would have one hundred thousand rupees at their disposal from nationalized banks to issue scholarships for education or *Jehaz* (dowry) fund at their discretion. Furthermore, at each MNA's recommendation two jobs of 17 grade and seven jobs of 16 grades would be granted in WAPDA and other financial institutions. The motion stated that those allocations constituted a breach of privilege of those members of the National Assembly who were not related to the PPP.<sup>131</sup> The motion went without saying that hiring candidates on the recommendation of MNAs was against the spirit of merit and it would start to affect the workings of the financial institutions. Such violations of merit needed to be stopped. Secondly, giving money to the MNAs would also be harmful to the political system of Pakistan. Sardar Mansoor Khan also opposed the policy of government and called it an unlawful act. He said that the jobs did not belong to the government to dole out to its favourites but the jobs belonged to the nation and any citizen would be able to get the job on merit. The opposition's member Manzoor Ahmed Gachki walked out from the House when Dr. Sher Afgan Khan rejected the motion on the basis of the house rules. He further elaborated that the opposition had no right of privilege on this issue. For example six hundred years long parliamentary history e.g., House of commons, Lok Saba, Congress in

USA such kind of motions were not admitted.<sup>132</sup> The opposition requested that the privilege motion should be referred to the privilege committee but in spite of the opposition's pressing the speaker ruled out the motion. There is no doubt that it was a grave matter but the government showed stubbornness and rejected the opposition's stance on the issue.

## **2.19- Allegation of Corruption and Misuse of Power Against Commerce Minister**

Dr. Attiya Inayatullah moved the motion and her motions were based upon newspaper item. *The Muslim* Newspaper had printed a story on the commerce minister's corruption on November 27, 1989 and later on December 1, 1989. She mentioned a statement of the Prime Minister which she had made on the floor of the House. The Prime Minister in her statement had committed that the minister would be taken to the court if they were corrupt. The other opposition members also supported the motion. The mover of the motion further said that the minister also holds another portfolio of local government and under the People's Works Programme through which he had illegally tendered eight million Rupees for the shrine of his ancestors. Chaudhry Muhammad Ashraf said that such incidents were reminiscent of the era of Muhammad Shah Rangeela. Lt-General (R) Abdul Majeed Malik quoted the Constitutional Article 91(4): "The cabinet together with the Minister of State be collectively responsible of the National Assembly."<sup>133</sup> Syed Faisal Saleh Hayat (Minister of Commerce) expressed his views regarding the allegation and tried to prove his innocence. He said that he would not oppose the motion on technical basis but he would prove it wrong on a factual basis. He lamented a media campaign to defame him and the PPP had been going on for that this was a part of that campaign. He said that he had offered a rejoinder to the news the very next day of its publication. He said that the facts were that in 1985 Cotton Export Corporation, Rice Export Corporation and State Life Insurance Corporation's minister of that time approved the Liaison office. The rest house was purely for the officers of the corporations. Then the government had increased the rent of rest house due to inflation and had not used any unfair means. The Speaker ruled out the motion.

The composition of the opposition in the legislature was changed when the MQM departed ways with the PPP and made a secret agreement with the IJI on September, 1989.<sup>134</sup> The MQM's differences with the government appeared due to different views on a number of issues e.g. the army operation, *Bihari* issue. The MQM wanted the settlement of the *Biharis* in Sindh but the government did not cede to it.<sup>135</sup> Secondly, the MQM was against the operation of the Rangers in Karachi and alleged that the government had failed to implement the Karachi Accord an agreement between MQM and PPP.<sup>136</sup>

After those allegations the MQM parted ways and joined Combined Opposition Parties (COP) and supported the no-confidence motion against Benazir Bhutto. Another major change that enhanced the power of the opposition and disturbed the government was the ANP's split from the PPP.

The ANP's differences appeared on the Afghan policy of the government and the appointment of Governor of NWFP. The ANP wanted an ANP Governor in the province while the government could not fulfill the ANP's demand due to the opposition of the establishment. The ANP left the alliance with the PPP and joined the IJI. The alliance with the IJI was not accepted by some leaders of the ANP and they resigned from the party. Latif Afridi, Afrasiab Khattak and Mukhtar Bacha were the main leaders who left the ANP.<sup>137</sup> The ANP faced serious problems when eight members of central committee resigned from the ANP due to its alliance with the IJI. Khan Abdul Wali Khan said, "Those who have left his party were neither socialist nor communist but were opportunists and they were agent of PPP."<sup>138</sup> So, the ANP and MQM both joined COP and supported the motion of no-confidence against the Prime Minister that was submitted in the National Assembly on October 23, 1989 by COP.<sup>139</sup> However, the motion could not succeed but in the session of Assembly ANP and MQM were a part of the opposition.

## **2.20- The Suppression of Terrorist Activities (Special Courts) Amendments Ordinance-1990**

Khawaja Ahmed Tariq Rahim had moved the ordinance in the National Assembly under the Article 89 of the Constitution. The Minister for Law and Justice explained that the bill was being introduced on the demand of the provinces and that it would ensure a speedy trial and timely justice.<sup>140</sup> He said, “The bill should not be confused with speedy trial courts about which the people party government believed that they are the black laws.”<sup>141</sup> Government wanted uniformity in laws in all the Provinces and it was being presented in Assembly after consideration of standing committee.<sup>142</sup> The opposition stressed its demand that the bill should be referred to the standing committee<sup>143</sup>. The Act existed in the Statute Book as Special Court Act 1975.<sup>144</sup> Through the amendment the government had wanted speedy trial within fourteen days with insertion of section 5-A.<sup>145</sup>

Chaudhry Amir Hussain, an opposition member, opposed the ordinance and mentioned the Constitutional Article 89 Sub Rules (6): “For the purpose of this rule, an Ordinance laid before the Assembly under sub rule 137 shall be deemed to be a bill, introduced in the Assembly on the day it so laid and shall be accompanied by a statement of objects and reasons.”<sup>146</sup> So, if the Ordinance lay before the Assembly it would be deemed to be a bill. Therefore it should be referred to the Standing Committee of Law and Parliamentary Affairs. However, Dr. Sher Afgan did not accede to the opposition’s argument and stated that article 89 (2) was radically different from the rule 137. He elaborated that referring the Ordinance to Standing Committee was different rule and Rule 89(2) was not applicable to it. He said “The Ordinance is laid before Assembly. It will be converted into bill in the form when a special notice again will be given to the Secretariat and then Rule 89 sub Rule (6) shall be applicable.”<sup>147</sup> Dr. Sher Afgan was sustained by Law Minister Syed Iftikhar Hussain Gillani. He said that the ordinance under discussion is an old law, in effect since 1988, and it had been a part of the Statute Book since that time in the shape of an ordinance. He said that the government had decided to introduce the bill in the National Assembly only after repeated

demand by the provinces of Sindh and the Punjab.<sup>148</sup> He quoted the Rule 94 “If a member raises the objections that a bill is repugnant to the injunctions of Islam, the Assembly may, by motion supported by not less than two fifth of its total membership refer the question to the council of Islamic Ideology for advice as to whether the bill is or is not repugnant to the injunctions of Islam.”<sup>149</sup> He further pointed out that the foremost object of the ordinance was simply to speed up the trial of heinous criminals and nothing more.

The Ordinance was on the brink of lapse that was why it needed approval on urgent basis. Nonetheless, the opposition was not prepared to acknowledge the statement of Minister and Chaudhry Amir Hussain alleged that the government was violating the constitution since the first day of its formation. The Constitutional Article 89 could only be used under special circumstances i.e. when the Assembly was not in session and any emergency legislation was needed. He stated that the opposition did not disagree with the purpose of the bill but that it was against the procedure that had been adopted by the government. He criticised the government on the issue of prisoners being released from jails. He said that the government was pushing legislation for speedy trials but on the other hand it was releasing dangerous criminals from the jails of the country. He also commented on the bill clause-wise and said that before the bill investigating officer was bound to present his report within 24 hours of a crime but after the promulgation of the bill he would be free for 14 days. He mentioned section 167 of criminal procedure code in that context. “It is provided that the investigating officer is bound to complete the investigation within 24 hours and if he is unable to complete the investigation within 24 hours then a procedure is given 14 days.”<sup>150</sup> He opined that on the basis of such flaws the bill should not have been tabled before the Assembly. Dr. Sher Afgan rejected the interpretation of the opposition and called it “incorrect explanation of law.” Ghulam Haider Wyne also strongly condemned the bill and said that he had opposed that bill on October 4, 1988 when it was introduced for the first time. He said that draft of the bill had a number of contradictions so it should be referred to the standing committee. He

said he was demanding this in spite of the fact that the opposition did not have any representation in the standing committee. Hafiz Hussain Ahmed said that the bill would be used against the political opponents of the government. He said that the government's malafide intent was evident in the use of the word *Kalashnikov* in place of rocket. He said that the government planned to hit the opposition by misusing the powers given under the bill.<sup>151</sup> Syeda Abida Hussain also opposed the bill and said that she had opposed the bill in the previous parliament too because it had a vast scope of being misused against political opponents. Chaudhry Muhammad Ashraf condemned the bill and termed it against the will of the masses and it opined that it would not survive for long. The opposition was weakened by the fact that it did not have any representation in the Standing Committee. The opposition claimed that it was not against the bill but the procedure adopted for getting the bill passed but the opposition was not unified in its stance and some members favoured the bill while others opposed it.<sup>152</sup> In spite of all the opposition the government succeeded in getting the assembly to adopt the bill. The opposition's demands were to some extent reasonable but they were not accepted by the government.

## **2.21- The Press Bill-1989**

Saeed Ahmed Awan Minister for Information had tabled the bill as reported by the Standing Committee for consideration. He declared that under the current law National Press Trust could not be disbanded because if the government did not support the newspapers, it could not survive at all. He said that the government would give up the supervision of the press gradually as was the practice in the world. He informed the house that Russia had offered Pakistan one million American Dollars for the press.<sup>153</sup> Opposition member Syeda Abida Hussain moved a motion for amendments in the bill that was accepted by the Speaker National Assembly. Syeda Abida Hussain expressed her views on the bill and asserted that as the bill would have multi-dimensional impact upon all departments of communications, therefore, it should be circulated among the public so that the citizens of the country could



share their opinion regarding the bill.<sup>154</sup> She further stated that press in Pakistan had a troubling history and it had faced a lot of resistance and restriction in the form of black laws. Hence, the country needed laws that did not have any controversy and accommodated as many different views as possible. Many other opposition members also supported the motion of amendment but the government did not accept the opposition's demand. It was a general practice that the government did not admit amendments suggested by the opposition.

## **2.22- Enforcement of Urdu As An Official Language**

In the later Mughal Period *Urdu* was spoken in Northern Western provinces of the Sub-continent.<sup>155</sup> After the Mughal Emperor Aurangzeb, all documents were written in *Urdu*.<sup>156</sup> The Hindus thought of *Urdu* as the language of the Muslims and wanted implementation of *Hindi* instead of *Urdu* in offices. The *Urdu-Hindi* controversy was at its peak in 1867 in India.<sup>157</sup> According to the census report of 1981 the language pie chart of Pakistan in terms of speakers was as follows: 48.17 percent *Punjabi*, 13.14 Percent *Pashto*, 11.77 Percent *Sindhi*, 9.83 percent *Seriki*, 7.6 percent *Urdu*, 3.04 percent *Baluchi* 2.43 Percent *Hindko* and 2.81 other languages. In 1930 the Muslim League had passed a resolution in the favour of *Urdu* while the *Bengalis* were against adopting *Urdu*.<sup>158</sup> However, the Quaid-i-Azam was very clear on the issue of language and had given a clear decision in favour of *Urdu* in 1947. He said, "Anyone who tried to mislead you was really the enemy of Pakistan. Without one State language, no nation can remain tied up solidly together and function."<sup>159</sup> The First Prime Minister of Pakistan Liaquat Ali Khan was also very clear on the issue of Language and he said, "It is necessary for a Nation to have one language and that language can only be *Urdu* and no other language."<sup>160</sup> In the Constitution of 1973 it was admitted that *Urdu* would be the National as well as official language of Pakistan and that the State would implement it within fifteen years.<sup>161</sup> Mawlana Muhammad Khan Sherani, one of the opposition members, moved a privilege motion regarding the *Urdu* language. He stated that under the constitution's Article 251 it was the government's obligation to take steps to implement *Urdu* as the

official language. A period of 15 years had been fixed to this end; however, nothing tangible had been done in this regard even after the grace period had passed. This, he said, pointed to the lack of the government's seriousness in implementing the article of the constitution. At that time English was considered first language in our country and even in National Assembly.<sup>162</sup> Therefore each and every document was made in English language in country and National Assembly. The Minister of Law and Justice Syed Iftikhar Hussain Gillani opposed the privilege motion on two grounds: it was against the Rule 68 and second fifteen years period had still not expired because the constitution had remained suspended from 1977 to 1985.<sup>163</sup> Mawlana Abdul Sattar Khan Niazi countered the minister and alleged that he was not correct in his statement. Another opposition member Abdul Ghafoor supported the opposition's motion and demanded that *Urdu* should be enforced at every level. Ghulam Haider Wyne favoured the opposition's stance and demanded that the motion must be referred to privilege committee. Umer Hayat Lalika and Chaudhry Muhammad Ashraf also supported the opposition on the *Urdu* issue and Chaudhry Muhammad Ashraf had quoted Article 251: "The National language of Pakistan is *Urdu* and arrangements shall be made for its being used for official and other purposes within fifteen years from the commencing day."<sup>164</sup> He interpreted the article to mean that the grace period had been completed. Hafiz Hussain Ahmed also offered illustration of different countries of the world especially France, China, and Japan where the national language was considered the superior language. He wished that the government followed them in owning the national language. However, all was in vain as the government overruled the motion.

### **2.23- Motion Under Rule-220 Regarding Discussion on Kashmir Issue**

Rising at the time of the independence of Pakistan, Kashmir had been a burning issue between India and Pakistan. The British government had decided that State Rulers would be free to either join Pakistan or India.<sup>165</sup> However, the Governor General Lord Mountbatten had suggested that rulers must observe communal composition of their States. He said, "You

cannot run away from the Dominion government which is your neighbour, any more than you can run away from the subjects for whose welfare you are responsible.”<sup>166</sup> 77 Percent of Kashmir’s population was Muslim and it was contiguous with Pakistan but Hari Singh the ruler of Kashmir unjustly signed the instrument of accession with India and created a very serious issue in the region.<sup>167</sup> The opposition accused the PPP government of selling Kashmir to India.<sup>168</sup> When Rajiv Gandhi had come to Pakistan to attend the SAARC Summit; he met Benazir Bhutto. The meeting was criticised severely by the President of Pakistan.<sup>169</sup> JI had held a demonstration procession in Islamabad in favour of the Kashmiri freedom fighters on April 23, 1990. The PPP secretary Professor N.D Khan had condemned the JI demonstration.

The JJI accused the government of protecting the interests of India.<sup>170</sup> Nawabzada Nasrullah Khan started a discussion on the dispute and elaborated his views. He said that the opposition had submitted a resolution on the Kashmir issue that highlighted the issue very well at international level but unfortunately the national council could not be formed at the right time. Even after its belated formulation it was hounded by issues such as the selection of the Chairman and the Vice Chairman on the basis of undemocratic and unconstitutional grounds. He said that the opposition had not expected such mala fide practices from the government on such an issue of national importance.<sup>171</sup> Consequently, the opposition had the right to reject the council. Nawabzada Nasrullah Khan alleged that the appointment of the Chairman and the Vice Chairman was against the political conventions because the government did not consult the opposition.<sup>172</sup> He accused the government of ignoring the issue and putting it on the back burner.<sup>173</sup> The opposition was very confrontational toward Government and the heated debate was pointed out in *Frontier Post*. The newspapers wrote, “When opposition started debate on Kashmir their primary target was the government of Pakistan, not the government of India.”<sup>174</sup> In India the BJP government’s stance was based on contradicting the Pakistani narrative and the Indian government had passed a resolution in

which it had vowed that India would destroy all camps that were being sued it even if the camps were located in Pakistan. To this end India was amassing its military and weapons on the border with Pakistan. In Kashmir, India was playing a very brutal role and was killing the leadership of Kashmir like Mirwaize-e-Kashmir Mawlavi Muhammad Farooq Shah etc. while the Pakistani government was inactive in creating support for its stance on Kashmir among the international community and even the OIC.<sup>175</sup> He pointed out that even the Indian minister V.P Singh had highlighted the isolation of Pakistan in his speech. He stressed that Pakistan must work to win the support of the international community on the Kashmir issue. He lamented that the Pakistani Prime Minister had visited Libya in the near past and discussed all matters of the country with the Libya administration except Kashmir. To add insult to injury in her interview with *Time Magazine* she had supported the Indian stance on Kashmir. He urged the House to take serious notice of this.<sup>176</sup> Hafiz Hussain Ahmed expressed his opinion that the incumbent government was not serious regarding the issue and that the country's political leadership had been using the Kashmir issue for its own benefit for forty two years. Raja Sikander Zaman Khan said that Kashmir was Pakistan's backbone but the politicians were damaging it through conflicting politics. He supported the opposition's stance and rejected the National Council for Kashmir. The State Minister for Communication and Information Ahmed Saeed Awan stalwartly defended the government and said that the government had promoted the issue at the international level but the Kashmir movement could not succeed until the entire nation supported it. The Prime Minister had formed the council specifically for the issue so it should not be made used for minor political gains. But the opposition was not ready to spare the government at any cost Chaudhry Amir Hussain accused the government of putting the issue on the back burner as in the course of the SAARC Conference the Prime Minister did not do anything to highlight the issue. On the other hand the Indian Prime Minister during his visit to Islamabad had talked on the Kashmir issue and put forward the Indian stance that after four general

elections in the State the Kashmir issue had been resolved to the satisfaction of the *Kashmiris*.<sup>177</sup> He stressed that the government must try to get the UN to enforce its resolution on Kashmir. Sheikh Rasheed Ahmad was annoyed at the government and alleged that the government's appointed foreign minister was incompetent and that he had been crushed by Indian foreign minister. Moreover, he could not organize even a single meeting of the standing committee on that issue.

He also opined that India was creating a war-like situation to divert attention from Kashmir. The Pakistani foreign minister in an interview with the BBC refuted the allegation of their being thirty camps in Pakistan that were working against India but he accepted the existence of one such camp that was training terrorists for acting against India and named him Sheikh Rasheed Ahmed as its organizer.<sup>178</sup> Sheikh Rasheed Ahmed said that he admitted the camp does exist but it is not for terrorists but for freedom fighters. Both the sides of the House leveled criticism against each other and neither side could come up with any tangible plan for garnering support for Pakistan's stance regarding Kashmir.

## **2.24- The National Tariff Commission Bill-1990**

The session of Assembly commenced on May 24, 1990 to debate the National tariff bill.<sup>179</sup> The basic aim of the bill was to protect the indigenous industry of the country.<sup>180</sup> The bill was piloted by Minister of Commerce Syed Faisal Selah Hayat and had already been adopted in the Senate.<sup>181</sup> Ghulam Haider Wyne, opposition member, had moved amendments in the bill and demanded that the bill should be referred to the Standing Committee after the approval of the Senate. He elaborated that if the Senate suggested amendments in a bill then that bill is sent to a joint session of the Parliament. He said that the incumbent government was violating the democratic norms by taking the bill back and not calling a joint session of the Parliament.<sup>182</sup> The Senate had recommended four amendments in the current bill so that law required that it should be referred to the Standing Committee. Chaudhry Muhammad Ashraf and Chaudhry Abdul Ghafoor also supported the opposition's demand and Chaudhry

Abdul Ghafoor highlighted the Rule 113 in these words: “When a bill originating in the Senate has been passed by it and is transmitted to the Assembly, the Secretary shall as soon as may be cause it to be circulated among the members.”<sup>183</sup> He also discussed the Rules 114,115,116 and 117 in very detail and said that all rules were not separate and Rule 117 says; “Any member may make as an amendment that the bill be referred to a standing committee....”<sup>184</sup>

He also opined through the bill the government wanted to centralize the economy that would be harmful to the country. Sardar Mansoor Hayat Tamman pointed out that the Senate had not passed the bill but had suggested amendments in it. As tariff was the backbone of the economy of the country the issue needed a broad consensus. Dr. Sher Afgan Khan tried to defend the government and said that the opposition had a clear majority in the Senate yet the bill had been passed by the Senate after which the opposition should not be opposing the bill. Syed Faisal Selah Hayat offered the government’s perspective on the bill. He said that the Para No. 4 of the bill was very clear in explaining the purpose and object of the bill. According to the bill tariff commission is only a recommendatory body that can only make recommendation to the government without any power to impose any tariff.<sup>185</sup> In spite of all, the struggle the opposition could not convince the government and its demands were rejected by the government. The opposition’s demands were to some extent reasonable but the government did not make any attempt to incorporate the opposition’s recommendations in the bill.

### **2.25- The Banking Companies (Recovery of Loans) Amendments Bill-1990**

The Minister of Finance Ehsan-ul-Haq Piracha introduced the bill in the National Assembly. The leader of the opposition Ghulam Mustafa Khan Jatoi raised a point of order and opposed the bill. He drew attention to the High Court’s judgement and the Prime Minister’s statement in which the Prime Minister had vowed that if proof of any illegal act was found against her or her ministers, she would take act against them. He said that he was challenging the Prime

Minister to make good on her promise by presenting a list of those involved in illegal activities. He said that because the minister had been accused of corruption he had no right to present the bill in the National Assembly.<sup>186</sup> The opposition pointed out that it was a matter of shame that had been declared dishonest by Lahore High Court was still holding the post of Finance Minister.<sup>187</sup> Furthermore, the opposition drew the attention of the Speaker towards the commitment of the Prime Minister regarding eliminating corruption and lamented the fact that she was not delivering on her promise.

The opposition demanded that the Speaker should ban the entry of the Minister in the assembly till the final order of the Supreme Court.<sup>188</sup> The opposition said, “Mr. Piracha’s continuation in the office was an insult to the House as well as shameful for the party in power.”<sup>189</sup> Ghulam Mustafa Jatoi said that after the decision of the High Court the Minister did not have any right to hold the office.<sup>190</sup> However, the Speaker responded that he had no power to ban any member in that context.<sup>191</sup> Ehsan-ul-Haq defended the bill and said that Lahore High Court had given a decision related to Islamabad Stock Exchange and the government had filed an appeal against the decision in the Supreme Court. He said that the opposition was raising hue and cry on the issue of corruption without any solid reason. He also accused the opposition of running a propaganda campaign against the government and that the allegations of corruption were part of that campaign. He pointed out that out of 350 members of the stock exchange only one is his relative and he was not involved in any wrong doing.<sup>192</sup>

Later, the opposition boycotted the session and walked out from the assembly.<sup>193</sup> When the sessions resumed the next day Chaudhry Shujaat Hussain and Ghulam Haider Wyne said that the court’s judgement was very clear and the minister should resign. Chaudhry Abdul Ghafoor mentioned Article 68: “No discussion shall take place in *Majlis-e-Shoora* (Parliament) with respect to the conduct of any judge of the Supreme Court or of a High Court in the discharge of his duties.”<sup>194</sup> Another opposition member Chaudhry Muhammad

Ashraf had highlighted article 63: “A person shall be disqualified from being elected or chosen as and from being, a member of the *Majlis-e-Shoora* (Parliament), if he is propagating any opinion, or acting in any manner, prejudicial to the ideology of Pakistan, or the sovereignty, integrity or security of Pakistan or morality or the maintenance of public order or the integrity or independence of the judiciary of Pakistan.....”<sup>195</sup> In the light of the article the minister had lost his membership of the House so he could not sit in the house. But the Speaker National Assembly asked the member not to misuse the article. Ghulam Haider Wyne also supported Chaudhry Muhammad Ashraf’s argument. Hafiz Hussain Ahmed also demanded the resignation of the minister and termed such a possibility good for the strengthening of democratic traditions. Lt-General (R) Abdul Majeed Malik emphasised the importance of the Standing Committee. He opined that without the proper formation of the committees all the proceedings of the house would be null and void. Khwaja Ahmed Tariq Rahim said the committee had been formed unanimously in the House. The Law Minister Syed Iftikhar Hussain Gillani explained the issue in the light of the constitution and said that the constitution mentioned specific ways of appointment and removal of cabinet members. The constitution awarded the Prime minister the right to appoint and dismiss the members of the cabinet and nobody else could exercise this discretion. Chaudhry Asad-ur-Rehman and Sheikh Rasheed Ahmad commented that the minister did not have the power to comment on a court’s decision. The opposition had tried to prove that the Minister was involved in corrupt practices and should resign but this stance was not accepted by the government.

## **2.26- Alleged Harassment and Intimidation of The Member By The Punjab Government**

On February 17, 1990 Haji Kamal-ud-Din Anwar MNA of IJI from Taunsa Sharif had joined the PPP.<sup>196</sup> Floor crossing was rampant at the time. IJI MNA Ghulam Mustafa Bajwa met the PM in the presence of Ahmed Saeed Awan and Ghulam Mustafa Khar on December 5, 1989.<sup>197</sup> In his press conference he declared that he would support the PM for the sake of



democracy because COP was preparing grounds for the imposition of martial law in the country.<sup>198</sup> Later on, the Punjab government action against him and registered a case. He moved privilege motion in the National Assembly and requested that the proceedings of House should be stopped and his motion be discussed. He elaborated that he belonged to the IJI and also occupied a seat in the section of the house which was reserved for the IJI. Observing the prevalent circumstances of the country, he had decided that he would support the Prime Minister and democracy and would cast his vote according his honest opinion and free will. He would not favour a wrong person. He alleged that due to this statement the Chief Minister of the Punjab threatened him.<sup>199</sup> He further alleged that the Punjab Government had filed a baseless and mala fide case against his son Tariq Mehmood under section 327,336,506 in police station Chak Jumhera District Faisalabad and had even raided his house to arrest his son to pressurize him into retracting his support for the Prime Minister.<sup>200</sup> The member failed to get any support from the opposition. Momin Khan Afridi took exception to the Speaker's decision to give the floor to Bajwa and said that the Speaker had crumbled under the pressure of the threatening MNA. Abdul Ghafoor also opposed the opposition member and Claimed that the opposition member Bajwa's son was involved in crimes like extortion from sugar mills and vehicles that brought sugarcane to the sugar mills.<sup>201</sup> Moreover, he pointed out that Tariq Bajwa was not a member of the assembly so the house cannot halt the proceedings against him. Thirdly the investigation was going on so it should be complete. He lamented that similar instances of coercion by the government in FATA occurred regularly but nobody was prepared to discuss those. Fourthly it was a provincial matter so it could not be debated in the house. Chaudhry Muhammad Ashraf quoted the rules of Procedure Chapter 9 Rules 66: "question of privilege; A member may ,with the consent of the speaker raise a question involving breach of privilege either of member or of the Assembly or of a committee thereof."<sup>202</sup>

In accordance with the rule Tariq Bajwa is neither a member of the assembly nor a member of a committee, so there is no reason the matter should be discussed in the House. But the government supported the opposition member and admitted the motion.

### **2.27- Misbehaviour of ASF Staff of Karachi Airport with Parliament Member**

Syed Saleem-ul-Haq (MQM) moved a privilege motion in which he described that during a journey from Karachi to Sukkar the airport staff had misbehaved with him and also used harsh language. Furthermore the ASF staff had stopped him at the point of their guns. He said that Kunwar Khalid Younis and Altaf Hussain Kazim had faced similar scenarios so the motion must be admitted. He further alleged that such pressurizing tactics on the behest of the government were common and the members from Karachi and Hyderabad were particularly targeted. The Minister of State for Parliamentary Affairs Dr. Sher Afgan Khan Niazi said that the incident did not happen in the VIP Lodge but the Speaker rejected the statement of the Minister and said that the security staff should not misbehave with anyone in any lounge. However, Dr. Sher Afghan tried to portray the incident as a result of the security protocol and said that the MNA was not given any preferential treatment because: “The fundamental principle is that all citizens including the members of parliament have to be treated equally in the eye of law.”<sup>203</sup> However, the opposition and the government seemed to favour VIP culture when their collaboration led to the motion being admitted by the Speaker.

### **2.28- Discussion on Charge Expenditure**

The Speaker allowed the Parliamentarians to discuss on charge expenditure under the Article of 82 (1) of Constitution of Pakistan. The opposition member Chaudhry Amir Hussain commented on the issue saying that as voting right was not available so the members should present very positive and practical proposals in that context. He said that the Senate is an integral part of Pakistan’s Parliament, but a negative campaign had been going on against the Senate; and this campaign must be stopped. He opined that as the Senators had the same

rights and privileges as National Assembly members so every bill should be referred to the Senate for consideration and approval. He lamented that with the *Zakat* and *Usher* bill the government had denied the Senate its due right and had not sent the bill to the Senate.<sup>204</sup> The government was considering *Zakat* Bill as a money bill that is why it did not need to send it to the Senate but the opposition thought that *Zakat* bill was not a money bill, it was a religious obligation of the Muslims. Thirdly, the funds allocated to the Senate were not sufficient to meet the expenditure of the Senate so they should be increased. Funds for the judiciary, postal service and the election commission needed upward revision and the need to make new electoral rolls would also justify the increase of the election commission's budget. Syeda Abida Hussain supported the opposition's demands and said that the government should reduce external debt so that the country's sovereignty could be maintained. Chaudhry Abdul Ghafoor raised a new point and mentioned the Article 81 that bound the members of the Parliament regarding casting the vote during charge expenditure. He showed tremendous dislike towards it and termed it a tradition of the British and against the teachings of Islam. He also opined that the government did not have any authority to control the Senate expenditure as the Senate had a Finance Committee and that committee was a higher body than the Standing Committee of the National Assembly of Pakistan. He quoted the Article 88: "Finance Committee the expenditure of the National Assembly and the Senate within authorised appropriations shall be controlled by the National Assembly or, as the case may be, the Senate acting on the advice of its Finance Committee."<sup>205</sup> Furthermore, he alleged that the government had increased the budget of Prime Minister Office from 8% to 16% and demanded that this increased allocation should be reduced and redirected towards the President House. He also urged the government to bring reforms in Railway, communication department and postal services. Dr. Sher Afgan Khan offered the government's clarification and said that the National Assembly had a larger composition than the Senate that was why its budget was more than that of the Senate.

Secondly the lower House had doubled the working hours of the Senate thus necessitating the increased allocation of funds. He also pointed out that under Article 73(4) the money bill after declaration of the Speaker of the National Assembly could not be challenged so the opposition was violating the Constitution by challenging the money bill in the court.<sup>206</sup> But the opposition was not ready to relent in its attack on the government. Syed Sajjad Haider, Sardar Haji Gul Khatab Khan and Abdul Ghafoor Chaudhry demanded increase in the pensions of pensioners. Dr. Attiya Inayatullah drew attention to the finance minister's order that the expenditure of the ministries should not increase beyond 8% but the Finance Ministry had increased its expenditure by 127% which left the finance policy undependable. Hafiz Hussain Ahmed mentioned the *Zakat* and *Usher* and called it religious duty not tax. He demanded that federal ombudsman should be eliminated because it had lost its relevance. The government did not consider any proposal and due to the politics of conflict rejected all the proposals.

## **2.29- Scrutiny of Bank Accounts of The Members of Opposition**

Chaudhry Shujaat Hussain moved a privilege motion regarding the scrutiny of bank accounts of the opposition members. In his motion he said that according to the news of *Jang* dated May 10, 1990 and the *Muslim* dated May 17, 1990, Pakistan Banking Council had ordered all the banks to scrutinize the bank accounts of the opposition members. The banks had issued notices to the opposition members that showed the mala fide act of the government to disturb the opposition. Chaudhry Amir Hussain, Ghulam Haider Wyne, Chaudhry Asad-ur-Rehman, Main Muhammad Shafiq, Chaudhry Talib Hussain and Khwaja Kamal-ud-Din supported the privilege motion. The opposition highlighted that banks had issued notices to twenty members of the opposition and not a single member from the government had been issued a similar notice. Furthermore, the government under its policy of political victimization was also scrutinizing the bank accounts of the oppositions' family members also. Chaudhry Shujaat Hussain also alleged that the government was issuing fake loans on

fake documents to its favourites. Ghulam Haider Wyne said that in his constituency he had recommended some loans forms, but the government was scrutinizing even those people. Whole opposition demanded the admission of the motion that had referred to the privilege committee. On the other side Ehsan-ul-Haq Piracha defended the government and opposed the motion. He said that the motion was based on newspaper news that was refuted by the Banking Council in the *Dawn* dated May 18, 1990, “The Pakistan Banking Council has denied having issued any circular to the nationalized commercial Banks to scrutinized bank accounts of certain MNAs.”<sup>207</sup> But the opposition did not accept the clarification of the Minister and claimed that they had concrete proof of their victimization in the shape of the notices. The Minister undertook that he would investigate the issue properly. The government admitted the motion and also sent it to the Privilege Committee.<sup>208</sup>

### **2.30- Discussion on Demands for Grants**

The National Assembly session commenced on June 23, 1990 in which the Minister for Finance Ehsan-ul-Haq Piracha moved the grant for the expenditure of Cabinet Division.<sup>209</sup> Chaudhry Abdul Ghafoor had opposed the motion of grant vehemently attack and said that it was the desire of the whole nation that the non-productive expenditure be reduced. He found it unfortunate that the government had appointed a number of Federal Ministers who were non-productive. The opposition demanded that the government cut its expenditure so that more funds can be devoted to the development of the country.<sup>210</sup> Chaudhry Amir Hussain also supported the opposition’s stance and stated that Article 93 does not allow the President to appoint more than five advisors on the advice of the Prime Minister he said that the appointment of Special Assistant was illegal and that the country always had huge cabinets which should be reduced.<sup>211</sup>

Sheikh Rasheed Ahmad, Lt-General (R) Abdul Majeed Malik and Mawlana Abdul Sattar Khan Niazi opposed the grant of the government. Lt- General (R) Abdul Majeed Malik had raised a number of objections:

1. The Minister had resigned from his office so he had no right to move the motion in the House.
2. Ministry of Malik Mukhtar Ahmed had been divided into further two Ministries; it is unnecessary and waste of money and time.
3. The heavy Budget is wasted on tours of minister and state minister out of country that is also a burden on the nation. On the other hand Khwaja Tariq Rahim Minister had supported the motion of government and mentioned the Article 92(2) that deals the oaths of ministers. He stated that their cabinet had taken the oath to protect the Islamic Ideology and constitution so they could not violate the law and constitution of Pakistan. He also opined that Articles 91, 92 and 93, allow the appointment of special assistants. Syeda Abida Hussain criticised the allocations and said that 50 Lac were being spent on relief fund in Jhang District where there is no threat of flood. She said that the allocation was unjustified and a plunder of the national exchequer.<sup>212</sup> Chaudhry Amir Hussain stated that the government should pay attention to importance social sectors like education and health.<sup>213</sup>

In a nutshell the proposals of the opposition were not accepted despite their being some merit to them.

### **2.31- Motion for Grants for Expenditure of Establishment Division**

Ehsan-ul-Haq Piracha moved the motion for grant which was opposed by the opposition leader Ghulam Haider Whyn who alleged that the government was providing jobs on political basis through Placement Bureau to its favoured persons against merit. Peter John Sohotra and Chaudhry Muhammad Ashraf also condemned the government's policy. Peter John pointed out that the government had appointed non-technical persons on technical posts. Muhammad Ashraf highlighted the misuse of Bait-ul-Mal and the appointment of land commission Chairman which was made against the rules and regulations.<sup>214</sup> Begum Rehana Mushide and Begum Aamra Ihsan had also criticised the placement Bureau Provides

services without examinations of Federal Service Commission. Raja Zaheer Khan criticised the Placement Bureau on January 8 during his press conference. He claimed that the government was distributing huge amounts as well as services to its workers against merit under the garb of the Placement Bureau.<sup>215</sup> He said that the government could not solve unemployment through such a Bureau. He demanded that the government fill openings in the country on merit.<sup>216</sup> Syeda Abida Hussain alleged that government had spent 30 crore on Placement Bureau which now had been wound up.<sup>217</sup> Ghulam Haider Wyne claimed that only 13 of the 238 people appointed by the government had been appointed on merit. The IJI had been leveling charges of corruption on the PPP since the very first day of the formation of its government and on December 27, 1989 three members of the IJI had criticised the PPP government and alleged that the Bhutto family and senior members of federal cabinet were involved in getting kickbacks in airplanes deals. Furthermore, the government had distributed many plots free of cost in Islamabad among its members.<sup>218</sup>

### **2.32- Discussion and Voting on Demand for Grant of Expenditure Cabinet Division**

Lt-General (R) Abdul Majeed Malik moved the cut motion and criticised the government and alleged that government was allotting two hundred and eighty seven acres land in Islamabad to an unknown company. He said that the prevalence of corruption in the country was a saddening thought and it would lead to a tragedy.<sup>219</sup> Tariq Rahim countered the statement of General Abdul Majeed Malik and said that the land had not been allotted to anyone yet. But Lt-General (R) Abdul Majeed Malik rejected the statement of Minister and said that the letter of allotment had been issued to the company by the Capital Development Authority (CDA) Moreover; the company had started work on the land. He claimed that the government had allotted the land at the price of twenty million Rupees and that too to be paid in five installments whereas the actual price of the land was much higher Opposition member Syeda Abida Hussain presented letter of intent in the House to prove the opposition's allegation. "Lease hold right will be initially for 33 years extendable for similar

two terms with mutual negotiations for upward revision in annual ground rent.”<sup>220</sup> Sheikh Rasheed Ahmad said that it should be investigated whether the allotter Zulfikhar Afandi was a relative of the incumbent government member or not. However, the government did not yield ground to the opposition. The next motion was also moved by the opposition regarding the Prime Minister’s discretionary power and quota. Chaudhry Muhammad Ashraf stated that the Prime Minister’s quota had been increased from 10 % to 40%. He termed it a great injustice to the country and the people of Pakistan. He feared that the step would promote political bribery in the country that would be harmful to the country and democracy. He claimed that the distribution of ten billion Rupees in the form of loans on fake documents and without proper scrutiny was proof of this political bribery becoming rampant in the country. He alleged that the government was moving to grant plots to its allies to win their loyalty but that this was corruption. He lamented those discretionary powers that were for accommodating the needy and deserving persons were being misused for political gains.<sup>221</sup> Dr. Attiya Inayatullah said that Islam had fixed some basic principles for the rulers one of which was that the rulers were to use the property of the country as a sacred trust. She expressed her disappointment that the incumbent rulers had forgotten all the norms and principles of Islam. She quoted constitutional article 173: “Transfer of land by federal government or a provincial government shall be regulated by law.”<sup>222</sup> Zulfikar Ali Bhutto had allotted 96 plots during his era. General Muhammad Zia-ul-Haq had 70, Junejo had 59 plots allotted but Benazir Bhutto had allotted 255 plots within 18 months of her government.<sup>223</sup> All the opposition was against the reserved quota for the Prime Minister and demanded investigation of plots allotment. The government’s Minister Khwaja Tariq Rahim mentioned the section 49 of ordinance of CDA that grants permission for such allotments. So, the opposition motion was rejected by the government.



### **2.33- Cut Motion in Ministry of Education**

Syed Sajjad Haider opposition member had moved a cut motion related to the ministry of education. He opined that the government should make provisions that in case a candidate could not utilize a foreign scholarship another candidate may do so to stop the scholarship from going waste. He felt compelled to criticise the scholarship schemes in view of the poor quality of the research at universities. He said that even if the provincial education minister does not cooperate with the federal minister the responsibility lies with the federal minister and he should accept it. Mian Muhammad Usman also condemned the lapse of scholarships and demanded the establishment of a separate women's university. Haji Ghulam Ahmed Bilour and Chaudhry Muhammad Ashraf said that the distribution of scholarships should be on merit. Hafiz Hussain Ahmed and Haji Fazale Haq also supported the opposition's motion and observed that despite the allocation of 83569000 Rupees for education the country's education was not serving the masses.<sup>224</sup> They claimed that even the scholarships that were arranged from Zakat fund were not given to the poor and needy students. Syed Ghulam Mustafa Shah defended the government and said that in this year 180 boys were sent abroad without the permission of the ministry of education for undergraduate programs. He was not in the favour of such kind of programme and felt that such resources should be used for research programs.<sup>225</sup> In a nutshell the opposition's motion was rejected because it was not reasonable to cut the already low budget for education. The second cut motion was also related to education which was moved by Mawlana Fazal-ur-Rehman. In his speech he had described the significance of education through the teaching of *Quran* and *Sunnah*. However, he strongly criticised the modern education particularly English and called the present education system the brain child of Lord Macaulay. He stressed the need for *Quran* and *Hadith* based education and lamented that the Pakistani education system was divided into many classes and sections where the elite class had special institutions for education like Aitchison, and Burn Hall etc., but the poor people cannot dream of education. Begum Aamra

Ehsan accused the government of changing the status of Pakistan Studies and Islamic Studies from compulsory to optional courses as a result of which most private education institutions were not offering these subjects. He demanded that the government should create uniformity in the education system and open admission of special institutions for all.<sup>226</sup> Dr. Mrs. Attiya Inayatullah said that government should focus on primary education specially and government should reform the education system according to the wish and will of the nation. Mawlana Abdul Sattar Khan Niazi demanded that education should be according to the Objectives Resolution; "To enabling the Muslims, to order their lives individually as well as collectively according to the injunctions of Islam as laid down in *Kitab* and *Sunnah*." <sup>227</sup> He accused the education minister of indulging in provincialism and regionalism. He stressed that the country's education policy must be free of influence of external powers like USA or USSR. Khan Abdul Wali Khan (ANP) demanded that the education should be delivered in the mother tongue. Syed Ghulam Mustafa Shah explained the government's stance in detail and said that all public schools and Cadet College had reserved 30 % seats for rural areas. Secondly, there was a bigger gap in literacy in Punjab in primary education. The Minister accepted Wali Khan's argument to have primary education in the mother tongue and admitted that Urdu was the country's national language. Begum Shahnawaz Wazir Ali pointed out that the lessons related to the last Prophet and Hazrat Umar had been excluded which was inappropriate. In spite of a long debate of opposition, the government did not consider the opposition's proposals. Keeping in view the weaknesses of the education systems the opposition's demand for cuts was not reasonable. The next cut motion was moved by Malik Muhammad Naeem Khan (JI) regarding bank loans on political basis. He criticised the government on the issue of bank loans and stated that the government was granting loans blatantly that would cause a collapse of the financial institutions. He said that for a betterment of economy; junior entrepreneurs were promoted but in Pakistan big loans were granted on political basis and the banks found it difficult to

retrieve those loans. Lt-General (R) Abdul Majeed Malik said that nationalization of banks was very reasonable but later on, it was not utilized properly. Secondly, the unscrupulous loans on political basis had been issued by every government but the current government had broken all the records of the past. He said that the Prime Minister could check the list of debtors and would see that the loans were granted on political grounds.<sup>228</sup> Chaudhry Abdul Ghafoor, Umer Hayat Laleka, Ghulam Haider Wyne and Sardar Mansoor Hayat also criticised the government. Syeda Abida Hussain mentioned Article 38(b): “Constitution of Pakistan shall: “provide for all citizens within the available resources of the country, faculties of work and adequate livelihood with reasonable rest and leisure, and then again provide basic necessities of life, such food, clothing, housing, education, medical relief for all citizens irrespective of sex, caste, creed or race and reduce disparity in the income and earning of individuals.”<sup>229</sup> She said that the government was violating the constitution and promoting only its political party. Chaudhry Muhammad Ashraf and Shahid Khaqan Abbasi criticised the government and rejected the proposal of High level investment board to be established by the government and stated that it would serve one person at the expense of ten million Rupees. Ehsan-ul-Haq Piracha defended government and said that the government had promoted the banks and even the branches outside country were earning excellent profit owing to the government’s policy. He mentioned that the opposition was also a beneficiary of bank loans and that even Abida Hussain had got a loan of ten million for agriculture that had not been recovered. During the debate both sides were at against each other and opposition motion was rejected. Ehsan-ul-Haq moved a motion for grant of expenditure of finance division which was strongly opposed by Chaudhry Amir Hussain. He strongly highlighted the National Finance Commission and quoted Article 160 (1) “within six months of the commencing day and therefore at intervals not exceeding five years, the president shall constitute a national finance commission.....”<sup>230</sup> The government had failed to constitute the commission despite the lapse of one and a half year. He said that on the basis

of such a condition the cut motion must be accepted. A majority of the opposition members participated in the debate and supported the cut motion. The government announced that the commission would be constituted soon and rejected the opposition motion. The next cut motion was moved by opposition member Mawlana Fazal-ur-Rehman that was related to ministry of information. He said that the press was not free and fair and its role was partial and shameful. He said that the press was propagating against JI and that this should be stopped at top priority. Abdul Khaliq Khan Opposition member also criticised the role of the press and said that the real responsibility of the media is that it should communicate correct information to the society but the Pakistani media had failed in its responsibilities. Syed Tariq Mehmood (MQM) said that the media's role was negative and it always presented a negative picture of the opposition. However, Ahmed Saeed Awan defended the government and said that the opposition did not present any concrete proof against the media and secondly media did not discover the opposition's activities properly and gave adequate time to the opposition. So the cut motion of opposition was not considered. The next cut motion was moved by opposition member Chaudhry Muhammad Ashraf. It was related to the ministry of water and power. He quoted constitutional article 154: "The Council shall formulate and regulate policies in relation to make in part II of the Federal legislative list and in so far as it is in relation to the affairs of the federation, the matter in entry 34 (electricity) in the concurrent legislative list, and shall exercise supervision and control over related institutions." The council of common interest is the supervisory body of WAPDA but still the council had not been formulated. He further elaborated that distribution of electricity was in provincial jurisdiction and he quoted the Article 157: "To the extent of electricity is supplied to that province from the national grid, require supply to be made in bulk for transmission and distribution within the province."<sup>231</sup> Syed Sajjad Haider and Chaudhry Abdul Ghafoor also supported the cut motion of the opposition and Abdul Ghafoor mentioned the manifesto of the PPP and alleged that the PPP was violating the party

manifesto. He quoted the manifesto chapter 3: “Man’s quest to be master of environment is at once an expression of his expanding consciousness and increasing ability to manage his affairs. This aspiration for autonomy is a fundamental human desire which can neither be suppressed nor postponed.”<sup>232</sup> The Minister of power Sardar Farooq Ahmed Leghari said that his government would never violate the constitution and that they were not against the council of interest and commission of finance. He said that WAPDA was not only for electricity production and distribution but it had a lot of other assignments too that was why it could not be handed over to the provinces. So, the cut motion was not accepted by the government. The next cut motion was related to local body and local government that were moved by Mian Muhammad Usman. He opined that the federal government cannot use funds without the help of local bodies in the provinces. He strongly criticised the People’s Works Programme and said that it an excellent example of misuse of funds like Faisal Selah Hayat was spending the fund on his ancestor’s shrine in Jhang<sup>233</sup> Shahid Khaqan Abbasi and Lt-General (R) Abdul Majeed Malik also criticised the government on that issue and presented different examples of the government’s wrong doing. Chaudhry Amir Hussain quoted Article 32: “The State shall encourage local government institutions composed of elected representatives of the areas.”<sup>234</sup> He said that the article demanded that the government promote the local government at top priority. Mawlana Abdul Sattar Khan Niazi, Muhammad Aslam Lone, and Mawlana Shaheed Ahmed also supported the cut motion of opposition, but in spite of all the discussion the motion was rejected by the government. The opposition’s role was very confrontational in the National Assembly as well as outside the Assembly during first era of Benazir Bhutto government. The opposition had demanded vote of confidence to PM under the Article of 91 of the Constitution. The opposition declared that the PPP government was valid only up to March 20, 1990 because the President had appointed the PM and Presidential powers were only valid up to March 20, 1990.<sup>235</sup> Dr. Sher Afgan defended government and explained that there was no need of vote

of confidence. However the opposition demanded mid-term election to build pressure on the government.<sup>236</sup> Opposition criticising the government policy was its constitutional right but the President and the army were also against the government. The confrontation with the army had started when Benazir removed General Hamid Gul from headship of ISI and appointed General (R) Shams-ur-Rehman Kallue. The Army Chief and some senior officers were against the new appointment that enhanced the gulf between the government and the army.<sup>237</sup> The President also criticised the foreign policy of the PPP and condemned the dialogue between Benazir and Rajiv Gandhi.<sup>238</sup> The appointment of high profile officer also widened the gap between the President and the PM. The President House declared that the President had discretionary powers to appoint the Chief of Armed Forces including Chairman Joint Chief of Staff but the PM was not ready to accept it.<sup>239</sup> Likewise, several issues deteriorated the relations of the civil government with the army as well as the President.

On August 6, 1990 the President dismissed the PPP government leveling the accusation of corruption, mismanagement, personal gain and poor condition of law and order. Commenting on the allegations Maleeha Lodhi said, “The allegations are the same as the ones that have been made by previous presidents.”<sup>240</sup> Benazir Bhutto called it quasi-military intervention. Thus the first term of the PPP government was ended. The next chapter will explore the PPP’s role as the opposition

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- <sup>201</sup>NA (*Legislature*) Debates, Official Reports, Vol. V, No. 13, (June, 1990), 851.
- <sup>202</sup>Ibid., 852.
- <sup>203</sup>Ibid., 854.
- <sup>204</sup>Ibid., 862.
- <sup>205</sup>NA (*Legislature*) Debates, Official Reports, Vol. V, No. 18, (June, 1990), 1222-1223.
- <sup>206</sup>NA (*Legislature*) Debates, Official Reports, Vol. IV, No. 9, (June, 1990), 1075.
- <sup>207</sup>NA (*Legislature*) Debates, Official Reports, Vol. IV, No. 6, (June, 1990), 594.
- <sup>208</sup>Ibid., 601.
- <sup>209</sup>NA (*Legislature*) Debates, Official Reports, Vol. V, No. 9, (June, 1990), 1101.
- <sup>210</sup>Ibid., 1111.
- <sup>211</sup>*Pakistan Times* (Islamabad), June 24, 1990.
- <sup>212</sup>Ibid.,
- <sup>213</sup>NA (*Legislature*) Debates, Official Reports, Vol. IV, No. 10, (June, 1990), 1252.
- <sup>214</sup>*Pakistan Times* (Islamabad), June 24, 1990.
- <sup>215</sup>Ibid.,
- <sup>216</sup>NA (*Legislature*) Debates, Official Reports, Vol. IV, No. 10, (June, 1990), 1291.
- <sup>217</sup>Jang (Rawalpindi), June 9, 1990.
- <sup>218</sup>*Jasarat* (Karachi), June 5, 1990.
- <sup>219</sup>*Pakistan Times* (Islamabad), June 24, 1990.
- <sup>220</sup>*The Muslim* (Islamabad), December 28, 1989.
- <sup>221</sup>NA (*Legislature*) Debates, Official Reports, Vol. IV, No. 10, (June, 1990), 1303.
- <sup>222</sup>Ibid., 1307.
- <sup>223</sup>Ibid., 1310.
- <sup>224</sup>Ibid., 1312.
- <sup>225</sup>Ibid., 1312.
- <sup>226</sup>NA (*Legislature*) Debates, Official Reports, Vol. IV, No. 11, (July, 1990), 1475.
- <sup>227</sup>Ibid., 1479.
- <sup>228</sup>Ibid., 1486.
- <sup>229</sup>Ibid., 1495.
- <sup>230</sup>NA (*Legislature*) Debates, Official Reports, Vol. IV, No. 12, (July, 1990), 1532.
- <sup>231</sup>Ibid., 1537
- <sup>232</sup>Ibid., 1680.
- <sup>233</sup>Ibid., 1715.
- <sup>234</sup>Verinder Grover, (*edited*) *Pakistan Government and Politics* (New Delhi: Deep & Deep Publication PVT LTD, 2004), 452.
- <sup>235</sup>Zafar Abbas, "Who's Charge" *Herald*, Vol. 20, No. 9, (September, 1989), 58.
- <sup>236</sup>Ahmed Rasheed, "Showing Her Steel" *Far Eastern Review*, Vol. 144, No. 23, (July 8, 1989).
- <sup>237</sup>Zafar Abbas, "Discordant Note." *Herald*, Vol. 20, No. 8, (August, 1989), 37.
- <sup>238</sup>Ibid.,
- <sup>239</sup>Ibid.,
- <sup>240</sup>Maleeha Lodhi, *Pakistan: Encounter with Democracy* (Islamabad: Vanguard Books, 1994), 204.

## CHAPTER- 3

### **DIVERSIFIED DIMENSIONS OF THE CONNECTEDNESS OF OPPOSITION IN THE NATIONAL ASSEMBLY OF PAKISTAN ALL THE WAY THROUGH THE GOVERNMENT OF ISLAMI JAMHOORI ITTEHAD (1990-1993)**

The differences amongst the Prime Minister, the President and the Army Chief were very serious, and the democratic system was on the brink of destruction, with political observers speculating that the PPP government would soon be dismissed. On August 4, 1990, an article by analyst and commentator Ayaz Amir forecasted that. Since the budget session of the National Assembly in June, Islamabad had been afloat on a Sea of rumours. It is being said since then that the triangular relationship between the President, the Army Chief and Prime Minister was on the verge of breaking down and that as a result ,some serious action was about to be taken against the federal government. Either the Assemblies would be dissolved or a National government would be formed.<sup>1</sup>Consequently, the prediction proved to be true, and President Ghulam Ishaque Khan dismissed the Pakistan People’s Party government on August 6, 1990 on the basis of corruption, mismanagement, nepotism and several other allegations. He declared that Benazir Bhutto would have to face trial due to irregularities observed during the tenure of her government, which is summarised below;

1. In-effective and wrong policy of Kashmir.
2. Corruption and personal gains.
3. Deteriorating position of law and order especially ethnic issue in Sindh.
4. Damage of Islamization process in country.<sup>2</sup>

To address the vacuum created by the dismissal of the sitting government, President Ghulam Ishaque Khan appointed Ghulam Mustafa Jatoi, who was leader of opposition in National Assembly as caretaker Prime Minister. Jatoi was a veteran politician and policy maker who had started his political career under the leadership of Z. A. Bhutto and served as cabinet member as well as Chief Minister of Sindh, later on establishing his own party with the

name of National People Party.<sup>3</sup> Syeda Abida Hussain was appointed information minister in the caretaker government. Moreover, the governance of the caretaker provincials' caretaker's government was also given to IJI and its allied parties, with the Sindh government being handed over to Jam Sadiq Ali who was a great opponent of PPP.<sup>4</sup> President Ghulam Ishaque Khan announced that elections would be held on November 24 to 27, 1990.

### **3.1- General Elections-1990**

The IJI participated in the election in alliance with eight political parties, including PML, JI, National Peoples party, which comprised the major political parties of IJI. The PPP formed a political alliance under the name of People Democratic Alliance (PDA) on September, 1990 with the support of *Tehrik-i-Istiqal*, *Tehrik-e- Nafaz-e-Fiqah Jaffria* and ML (Qasim Group).<sup>5</sup> *Tehrik-i-Istiqal* had cooperated with PPP during MRD but both parties were totally in conflict over their respective political philosophies. For instance, Asghar Khan had been a staunch critic of PPP and its leaders, whereas the PPP blamed Asghar Khan for imposing Martial Law in 1977 because he had written a letter to Army Chief soliciting army intervention in government.<sup>5</sup> Hence, the civil cum military bureaucracy was positioned against PPP. PM Jatoi addressed the nation and requested that the electorate should cast its vote against the PPP.<sup>6</sup> He alleged that Benazir Bhutto had links to the Zionists, and that she was embroiled in a conspiracy against Pakistan with Americans.<sup>7</sup> Syeda Abida Hussain raised questions over the nationality of Benazir Bhutto and alleged that she had a foreign domicile.<sup>8</sup> The President made a speech on the PTV against the PPP. Benazir Bhutto had filed case against PTV, but to no avail.<sup>9</sup> The Inter Services Intelligence (ISI) also played negative role, using 140 million rupees against PPP during the elections campaign. Benazir faced several hardships. On the one hand, she was engaged in the elections campaign and on the other hand she was facing cases filed against her by the President.

On October 10, 1990, Bhutto's husband Asif Ali Zardari was arrested on charge of kidnapping and extortion.<sup>10</sup> On the other hand, the IJI was fully supported by the caretaker

government as well as the President and the Army Chief.<sup>11</sup> PPP defended its government policy and foreign policy during the period of 1988 to 1990, and further the party presented itself as the victim of Presidential act of dissolution of government during the election campaign<sup>12</sup>.

IJI elections slogan was a corruption free society and promotion of Islamic traditions during the election campaign. Under such circumstances, a beleaguered PPP contested the election, with results predictably matching the will of the interim government. IJI secured 106 Seats of National assembly with the ratio of 37.37 percent votes, and the PPP got 44 seats in the National Assembly with a ratio of 36.88 percent of votes. MQM secured 15 seats, while the independents comprised 21 in the National Assembly. ANP won six seats, a figure matched by JUI and PNP producing a showing of 2 seats. JUP, PKMAP and JWP respectively secured three, one and two seats each in the National Assembly.<sup>13</sup> Wali Khan, Meraj Khalid, Syeda Abida Hussain, Aftab Ahmed Sherpao, Mumtaz Bhutto, Mawlana Fazal-ur-Reham and Hafeez Pirzada were unable to win seats in the National Assembly.<sup>14</sup>

The PPP had published a white paper seven months after the election in which the PPP levied charges of rigging on IJI and highlighted the illegal role of Roedad Khan, Lt-General (R) Raffaqat, Lt-General (R) Hamid Gul and Lt-General (R) Asad Durrani in the elections of 1990.<sup>15</sup> However, despite these allegations, the PPP did not boycott the parliament and participated during the proceedings of the House. As a result of the election, IJI took charge over the government, with Nawaz Sharif taking oath as PM on November 6, 1990 after receiving 153 votes, while his rival Muhammad Afzal Khan could manage only 39 votes.<sup>16</sup>

On November 9, 1990, the P.M announced his cabinet, with Sahabzada Yaqub Khan being appointed as foreign Minister and Sartaj Aziz being nominated Finance Minister.<sup>17</sup> The PPP assumed its role as opposition in the National Assembly. The present chapter will explore new dimensions of the opposition's role as well as of the government ahead.

### **3.2- Resolution: Ownership Rights of Farmers under Horse Breeding Scheme of Federal Government**

The 9<sup>th</sup> Assembly of Pakistan took oath on November 3, 10.<sup>18</sup> During British rule, the government had started a horse breeding scheme in sub-continent, distributing lands among farmers upon the condition that they would provide mules and horses to government. However, the government did not give ownership rights to farmers. Moving the resolution for the rights of farmers during this assembly, Mian Muhammad Zaman (IJI) described the horse breeding scheme that had been started by British in 1912 for the purpose of supply of horses and mules to the government for the defense of the country.<sup>19</sup> He contended that as the government no longer had need of horses and mules in the modern era, the land must be granted to the farmers on ownership basis. Such a scheme had been converted in the rights of farmers in Sargodha and Faisalabad District.

On these grounds, it was contended that Multan, Okara, Sahiwal and Khanewal must be awarded rights of ownership, in view of the fact that since 75 years they had been deprived of their rights. He presented various schemes in which people had gained benefits like tree growing scheme and more food growing scheme etc.<sup>20</sup> Muhammad Yasin Watto and Qasir Ali Khan, Hamza, Chaudhry Nazeer Ahmad Khan and Ray Munsib Ali Khan were also in the favour of resolution. The sole opponent Chaudhry Muhammad Sarwar (IJI) counter-argued that since Pakistan had lot of hilly areas where horses and mules were very necessary for defense point of view, so government should not eliminate the scheme totally. Secondly, he argued that if the government wanted to grant rights to farmers, then the government had to allocate area for horse breeding in any other place.<sup>21</sup> Although the resolution was not passed, during the debate over the resolution, the role of the opposition was negligible.

### **3.3- Provision of Inexpensive and Prompt Justice to Citizens**

An independent Judiciary is an integral part of democracy and serves to provide cheap justice to the masses.<sup>22</sup> Pakistan first Constitution of 1956 positioned the judiciary as free

and independent. During the formation of the constitution of 1973, it was stated that the government would brought measurement of improvement of judiciary system.<sup>23</sup> However, it may be noted that the judiciary cannot provide justice without proper legal system and organized police system. Over the course of history, various governments have tried utmost to provide free justice. For that purpose, Special courts, Tribunals and speedy courts were established. Zia had constituted Shariat court that instructed to settle the criminal cases appeals within two months.<sup>24</sup> Despite these efforts, the public was still unable to access cheap and fair justice. Rao Qasir Ali Khan (JI) moved the motion regarding cheap and speedy justice in which he demanded that government should fix period of case in submission of court within fourteen days.<sup>25</sup> Supporting the resolution, Mian Anwar-ul-Haq Ramy (JI) observed that “No person shall be deprived of life or liberty saves in accordance with law.”<sup>26</sup> Moreover, it was argued that the Executive and Judiciary within the constitution should be separated within fifteen years, but still the executive had power of judiciary. If the levels within the four-tiered judiciary were reduced, the public would benefit from the flatter judiciary. Secondly it was proposed that free legal assistance had to be provided with the special assistance of the government. Thirdly, it was proposed that the Criminal Procedure section 342 dealing illegal detention and punishment afforded three month imprisonment to the guilty police officer, which was not deemed to be a reasonable punishment and it was argued that the duration should be increased.<sup>27</sup> It was suggested that during speedy trail, the accused should be granted right of defence free of cost and without any pressure. Ghulam Ahmed Bilour (ANP) also supported the resolution strongly, demanding that judiciary must be separate to the Executive and that the government should fix the time period for the decision of cases. He noted that the cases belonging to widows and orphans government should be provided full legal support and time period for such cases should not extend beyond two years.<sup>28</sup>



Mawlana Muhammad Khan Sherani JUI (F) suggested that all issues and crises would bring a measurement within the Islamic Jurisprudence and that Islamic Legislation should be based upon Council of Islamic Ideology's recommendations.<sup>29</sup> Muhammad Javed Iqbal Abbasi (IJI) was in favour of *Shariat*, as IJI had made promises regarding *Shariat* implementation in the society during the election campaign. Muhammad Azam Khan Hoti (ANP) was also in the favour of that resolution, mentioning that the committee that was constituted for that purpose and that it was in the right direction and legislation should be passed in direction of committee's recommendation.<sup>30</sup> Mehmood Khan Achakzai supported the resolution un-conditionally. Syed Naveed Qamar (PPP) passed on the resolution and suggested that government should take up first civil cases, not the criminal cases. Hamid Saeed Kazmi JUP (N) was also in the favour of police reforms, suggesting that the government should form the committee for the overhauling the police system. Mawlana Ali Akbar JUI (F) argued that only *Shariat* presented a complete solution and would not agree to less than Islamic laws. According to Mawlana Ali Akbar, only the *khalafa-e-Rashidin* system of government could remove all the vices from society.<sup>31</sup>

Syed Amir Hussain (PPP) suggested that investigation and registration of case departments should be separate. Atizaz Ahsan (PPP) was not favour in the speedy trail and called it very harmful for the society and country and quoted various examples of issues that had arisen in the period of military rule. In that period people had faced lot of hardships and suffering.<sup>32</sup> The resolution was passed but the opposition was not clearly against the resolution; rather it was in agreement to a certain extent.

### **3.4- Adjourn Motion on Co-operative Societies' Issue**

The Co-operative scandal was one of the biggest financial scandals that deprived two million people of their savings as well as damaging the credibility of Nawaz Sharif government.<sup>33</sup> Nawaz Sharif cabinet members were involved in irregularities of BCCI, Co-operative and Mehran Bank scandal.<sup>34</sup> It is stated that 17 billion rupees were embezzled and

that people perceived the Nawaz Sharif government as being involved in the scandal.<sup>35</sup>The commission was organized to investigate the matter and an executive order was issued against management of Punjab Industrial Development Corporation for allegedly violating the rules.<sup>36</sup>Chaudhry Amir Hussain (IJI) had moved the motion for discussion of the issue and Sardar Mansoor Hayat Tamman (IJI) had explained the issue in every detail. Almost eighty thousand branches were in operation in the country and 300,000 share holders were part of the co-operative society. The default amount was of three to four hundred core rupees; moreover three hundred thousand persons were working in these societies.<sup>37</sup>It was assured that the IJI government would take up the issue at top priority basis. While State Bank of Pakistan shrugged off responsibility for the debacle by placing a disclaimer in a single newspaper in which it announced that societies did not have rights of banking.<sup>38</sup>

The Legislature and State Bank both were equally responsible for providing protection of the property of the masses. Liaquat Baloch (JI) said that in the past, the same had happened with poor people and still not a single penny had been recovered. For instance, embezzlement in the Taj Company was one of the best examples. He criticized the Finance Minister and State Bank, observing that both was responsible for the defaulting of the amount.

Mian Muhammad Zaman and Sardar Mansoor Hayat Tamman had pointed out some new dimensions of the issue, alleging that Punjab government officers were badly involved in the issue and that they were making money in the shape of plots in housing scheme. Muhammad Abdullah Ghazi had requested that government should confiscate the properties of all defaulters and cases should be lodged under the criminal code of conduct in Special Court. Opposition collaborated on this issue. Chaudhry Altaf Hussain (PPP) advised his colleagues to discuss the matter in National Assembly with cool mind and to avoid mudslinging on respectable families.<sup>39</sup>He said, “we should collectively work together putting rivalries and party affiliation aside to find a solution to this problem. We should not take the issue for discussion immediately. The members may be given time to do homework so that they could

come out with positive and concrete suggestions for solution of this problem.”<sup>40</sup>The motion was admitted in the National Assembly.

### **3.5- Afghanistan Issue**

Nawaz Sharif as well as Benazir Bhutto could not set the dimension and direction of foreign policy of their own accord because there were a lot of difficulties in reconciling with the Army’s interest in foreign policy.<sup>41</sup>From the very first day, the Afghan policy was in the hand of Army. Nawaz Sharif and Benazir Bhutto had supported Afghan policy during their government in spite of opposition in country after Geneva accord.<sup>42</sup>ISI was supporting *Hezb-e-Islami* establishing government in Afghanistan. Gulbadin Hekmat Yar was favoured by the ISI among the other groups of freedom fighters.<sup>43</sup>JI was supporting *Hezb-e-Islami* while some political parties in Pakistan were against it. Nawaz Sharif was facing a very hostile situation on Afghan policy. The US and some political parties of Pakistan were not ready to accept *Mujahideen* government in Afghanistan.<sup>44</sup>Nawaz adopted moderate policy and supported national government in Afghanistan. On this JI parted ways with PML (N) and exited the alliance with government.<sup>45</sup>Mehmood Khan Achakzai (PK MAP) raised point of order against the visit of Qazi Hussain Ahmed to Khost city Afghanistan, noting that the government should not intervene in the inner affair of the other countries. The Afghan government complained against the interference of Pakistan and wrote a letter to UNO against Pakistan. The *Jang* newspaper published news regarding visit of Qazi Hussain Ahmed to Afghanistan without permission of Afghanistan government and without a passport. He attended the political procession in Afghanistan.<sup>46</sup>

Defending Qazi's visit, Liaquat Baloch (JI) said that Khost was independent city and under control of *Mujahideen*, and that it was not under control of Afghan Government. Malik Allah yar, (IJI) Chaudhry Nazir Ahmed Virk (IJI) was also in the favour of this stance. Ghulam Ahmed Bilour (ANP) said that it is clear cut violation of Geneva accord and it should condemn.<sup>47</sup>But at last the Speaker ruled out the point of order of Mehmood Khan.

### **3.6- Sectarian Violence in Turbat Baluchistan**

*Zikri* religion is followed by Baluchi speaking people who live in Karachi to Baluchistan coastal areas like Turbat, Makran and Gawadar etc. Kalag is centre of *Zikri* and their spiritual leaders called "*Molahi*."<sup>48</sup> Muhammad Attockki who was born on 1569 A.D in Attock Punjab was founder of *Zikri* religion. He declared himself 'Prophet' and wrote book "*Burhan*."<sup>49</sup> He changed *Quran* and he revoked *Zakat*, Prayer and other worships of Islam. He declared *Koh-e-Murad* Turbat as place of Haj instead of Makkah and Madinah.<sup>50</sup>In a nutshell, their practices were against Islam but they can travel to Arab countries on Muslim passport. Buldvi rulers especially Abu Saeed had expanded *Zikri* religion and victimized Muslims of that area in 1740.The clashes between Muslims and *Zikri* continue to date.<sup>51</sup>Mawlana Muhammad Khan Sherani JUI (F) moved motion against the religion and demanded that *Zikri*were not Muslims and that the Government should declare them non-Muslims, as Muhammad Attockki was their Prophet and they performed *Haj* on 27 *Ramzan*.<sup>52</sup> *Mawlana* Muhammad Siddique Shah JUI (F) also supported the resolution of Sherani and he said that *Zikri* had made amendments in the *Kalma* of Muslim and included the Name Mahdi in the Place of Hazart Muhammad (PBUH). *Zikri* did not believe in the *Quran* but they believed in the book of *Burhan* that is written by their own spiritual leaders.<sup>53</sup>Chaudhry Shujaat Hussain IJI explained that the committee was working under Mawlana Muhammad Siddique JUI and Chaudhry Abdul Ghafoor. After report of the committee was completed, the issue would be sorted out. Speaker explained that the issue could not be settled through adjourn motion and the House did not have power to declare individuals' non-Muslim at once, for it needed Constitutional amendment. Lastly, the motion was not admitted and the role of the opposition was not seen at this issue.

### **3.7- The Enforcement of Shariah Bill-1991**

General Muhammad Zia-ul-Haq was great supporter of enforcement of *Shariat* in Pakistan. After his death Ghulam Ishaque Khan promulgated *Shariah* ordinance on October 15, 1988

and the Ordinance was moved in National Assembly in December, 1988. The National Assembly ignored it and it expired on February 15, 1989 because Benazir Bhutto was not interested in it.<sup>54</sup> *Shariat* Bill was a stringent piece of legislation, addressing all aspects of life and modification of the financial system of Pakistan. It had set up some limitations on print and electronic media as well as education system of Country.<sup>55</sup>

In history of Pakistan, such types of bill were moved in Senate in July, 1986 under the name of the ninth Amendment. This was criticized by politicians and journalists as well. Makhdoom Ali Khan observed that, "If enacted the bill will have serious repercussions for the entire legal system. It may cause further abridgement of very few rights which are granted to the women in our society and shall strike at the powers of the already beleaguered superior courts. The first problem is going to arise regarding a consensus on *Sunnah*; there has been never an agreement in this regard even amongst *Ulema* of the same sect."<sup>56</sup> The editor of *Nation* observed that it had nothing to do with the *Quranic* principles of social justice. It will divide nation into different section.<sup>57</sup> Dorab Patail criticized bill and called it violation of constitutional Article 25.<sup>58</sup> The bill was transmitted to National Assembly on July 8, 1986 and referred to Select Committee on December 14, 1986. But before it passed, Zia had dissolved Assembly and the bill was lapsed.<sup>59</sup> The Senate had passed another version of *Shariat* bill in May, 1990 that was similar to Zia Ordinance while Benazir Bhutto and her coalition partner rejected bill in National Assembly and called it anti-Islamic.<sup>60</sup>

Benazir Bhutto was against Islamization scheme and considered national unity in political solution while her opponents were against her political approach.<sup>61</sup> Nawaz was also in trouble, for on the one side his allies ANP and MQM were against the bill while the religious community was in the favour of bill. His welfare and development programs were dependent on banking system.<sup>62</sup> On the other side in May, 1991 JI had rejected the bill and considered it imperfect.<sup>63</sup> In fact *Shariat* Act had not been completed in term of concrete legal measurement to enforce of Islamic laws.<sup>64</sup> The Minister for Law, Justice and Parliamentary

Affairs Chaudhry Amir Hussain introduced the bill in the House and referred the Bill to the select Committee.<sup>65</sup>

Chaudhry Amir Hussain had presented select committee report in the House in May, 1991 Syed Zafar Ali Shah had raised several objections to, with the major one being related to time and the demand that the government must give time minimum two days for consideration. Sardar Farooq Ahmed Leghari PPP said that Bill would have great ramifications for the lives of all citizens and that there was not any single interpretation. Every school of thought had its own Sharia interpretation. Muhammad Ajmal Khan Khattak (ANP) had demanded that debate on the bill should be conducted openly in the House. Syed Naveed Qamar (PPP) was also in the favour of open debate. Hamid Saeed Kazmi JUP (N) observed that every Muslim wanted Shariat but the current bill was not divine in nature. It had been made by people that were why it should be debated at the forum of Parliament. Speaker of National Assembly admitted the demand of opposition and granted two days for discussion under the Rule 97(2).

Sardar Farooq Ahmed Khan Leghari moved a motion in which he explained that *Shariat* Bill as reported by select committee was repugnant to the injunctions of Islam, which was why it should be referred to the Council of Islamic Ideology for further advice. Chaudhry Amir Hussain (JI) opposed the motion. Syed Iftikhar Hussain Gillani (PPP) supported the stance of the Opposition. He said that the introduction of the bill was mere violation of constitution, as the bill did not have a clear cut policy of elimination of *Riba* (Interest). In Islamic economy; the fundamental principle was total abolition of usury.<sup>66</sup>

Sahabzada Nazir Sultan (PPP) also demanded that bill must be referred to the Council of Islamic Ideology and he said that the bill was sectarian in nature, which was unacceptable to Islam as the religion was against the division of the society. Ihsan-ul-Haq Piracha (PPP) said that the bill was very important but it needs to attract collective consent. Syed Iftikhar Hussain again contributed his comments with quotation of Dr. Javed Iqbal's Thesis and

research: “For implementation you need a *khalifa* and for interpretation you need a *Qazi* that is a very strong view. I am just telling you the divergence of opinions on every fundamental issue. While interpreting and explaining the *Shariah*, the recognized principles of interpretation and explaining of the *Quran* and *Sunnah* shall be followed and the expositions and opinions of recognized jurist of Islam belonging to prevalent Islamic schools of Jurisprudence may be taken into consideration.”<sup>67</sup>

Moreover, he said that according to Allama Iqbal, *Ijma* should be permissible in that it should go to Parliament. But for expert opinion, Jurists were very necessary. Jurist should give an opinion, and the opinion should come back to the elected representatives of the House and then that matter be taken into hand. Baboo Ghulam Hussain (PPP) said that consensus among all schools of thought was very necessary, without it is harmful for the country and society. Aitzaz Ahsan (PPP) criticized the Bill and said that in the implementation of *Shariah*, administration is very vital component and that is inefficient in our country. Liaquat Baloch defending the government and said that in 1985, the Council of Islamic Ideology had recommended the *Shariah* bill’s clauses so there was no need to refer it again, and the opposition motion was not admitted.

Second motion was moved by opposition member Syed Zafar Ali Shah (PPP) in which he demanded that Bill should be circulated for eliciting public opinion. Sardar Farooq Ahmed Khan Leghari said that it was not bill of *Shariah* because it protects the usury that is forbidden in Islam. The Government should form committee on the Bill and all Political Parties have to representation in the committee so that consensus could be developed on the bill.<sup>68</sup> Jam Saifullah Dharejo (PPP) said that select committee that observed the bill comprised eight members and from that eight members had written dissent note on the Bill. So the Dissent Notes should go to public so that they developed real awareness of the real facts.<sup>69</sup> Majority of the opposition members were in favour of circulation of the bill but the government did not agree to that and the motion was struck down by the government.

A third amendment was also moved by opposition member Syed Zafar Ali Shah in which he demanded that the bill should be referred to the same select committee for its uniformity and collective consent.<sup>70</sup> He said that government had introduced the Bill in the House on May 11 and on May 13 government wanted to pass it. He wondered why the Government was in so much hurry to pass such an important piece of legislation. Saif-Ullah Daherjo said that some IJI members were also astonished by the urgency in such an important piece of legislation. Furthermore, five members of the Select Committee opposed the bill while total members of Select Committee were eight. Again government did not approve the amendment of the opposition. Syed Hamid Saeed Kazmi stated that the most of the new laws covered by the *Shariah* Bill were already covered in constitution. For instance, Section 227 of constitution dealt with those laws repugnant to the injunctions of Islam that should be null and void. The Article 203 of Constitution explains the powers and authority of the Federal *Shariah* Court.

Moreover, the Federal *Shariah* Court had the power to declare null and void any law that would be against the Islam. For instance in May, 1992 Court had declared null and void Chapter 3-A of Constitution and called it against injunction of Islam.<sup>71</sup> Furthermore, Court struck down section 19 of *Shariat* Act of 1991 because it was related to interest in bank transition and court instructed that government must amend it within six months.<sup>72</sup> Benazir Bhutto was against the power of court. According to her Parliament was superior to court. "If there is a search for an Islamic law that can reflect the wishes of the Muslim masses."<sup>73</sup> Article 31 of the Constitution of 1973 would help the Muslims to adopt an Islamic Life and Article 9 dealt with media and bound it to express accordance with Islam and to promote the values and traditions of Islam. Articles 37, 4, 12 and many others were included in the constitution that dealt Islamic way of life. So it was argued that a *Shariah* bill was needed.<sup>74</sup> Syed Aslam (MQM) said that some law experts did not agree with the bill so it should be sent to committee. Makhdoom Muhammad Javed Hashimi (IJI) criticized the bill and he was



satisfied. Muhammad Ajmal Khan Khattak (ANP) stated that parliament was supreme and bill was against the power of Parliament. Ghulam Ahmed Bilour (ANP) explained that their party had its own manifesto and it was based on Nationalist, progressive and secular. So through bill they were not ready to accept the supremacy of a few people<sup>75</sup> because the *Quran* had not any specified political system.<sup>76</sup> Mir Bizan Bizanjo (PNP) had criticized bill and assumed that it would cause sectarianism in the society. Peter John Sohatra stated that minorities did not have representation in Select Committee; however rights of the minority must be protected.<sup>77</sup> Benazir Bhutto criticized the bill and said, "I would like to say on behalf of PDA that we reject the present bill as non-Islamic sectarian, unconstitutional and obscurantist."<sup>78</sup> She pointed out that clergy was against nationalism and bill would divide the nation more.<sup>79</sup> Always clergy had supported imperialism and called Quaid-i-Azam "*Kafar-e-Azam*". The fundamentalists wanted the destruction of the country and they never liked unity of Muslim Ummah, for that they had divided Muslims into different section and faction.<sup>80</sup> If bill is amended according vision of Quaid-i-Azam PPP will support it. Otherwise, bill would bring destruction to socio legal system and for foreign investment.<sup>81</sup>

Furthermore, she said; "we would like to see Parliament as a party need of *Ijma* and the law of God in the country. We were being forced to oppose the present Bill because we believe that the present Bill does not give security to the concept that *Ijma* or the consensus of the Muslim policy is to be determined by the elected representatives of the country."<sup>82</sup> She made a long speech in the House in which she criticized *Shariah* Bill from every angle. Atizaz Ahsan quoted Quid Azam's speech of August 11; "You are free, you are free to go to your temples, you are free to go to your Mosques or to any other place of worship in the State of Pakistan, you may belong to any religion, caste or creed that; has nothing to do with the business of the State."<sup>83</sup> He criticized the bill and delivered a very long speech and said that government is not interpreting Objectives Resolution in correctly. He said; "The Objectives Resolution does not compete the state to force people to live as good Muslims or as Muslims

or as anybody else or as whatever. It only must provide for the facility to those who want to live as good Muslims to be good Muslims to be able to perform various.”<sup>84</sup>After a long discussion on the bill Arbab Muhammad Jehangir Khan (ANP) moved the amendment in which he said; “That clause 3 of the Bill as reported by the select committee, be substituted by the following namely; supremacy of *Shariah*, Injunction of *Islam*, as laid down in the *Quran* and *Sunnah* shall be the supreme source of laws in Pakistan.”<sup>85</sup>

However, Chaudhry Amir Hussain opposed the amendment. Rafiq Ahmed Mahesar (PPP) criticized and stated that *Quran* did not have any fixed political system and it should be taken as the source of law. Zafar Ali Shah (PPP) alleged that IJI wanted dictatorship through such type of bill.<sup>86</sup> In the Modern State, Legislative, Judiciary and Executives are the Supreme institutions. If Legislative will be weak, masses will be weak and unity will be turn into pieces. Therefore except for Supreme source of Law, authority should be given to Parliament.

Syed Iftikhar Hussain Gilani, Zafar Ali Shah, Sardar Farooq Ahmed Khan Leghari and Chaudhry Muhammad Altaf Hussain were against the bill and called it against the *Islam* in real sense. Ghulam Ahmed Bilour (ANP) said that *Quran* is book of God that tells us morality and Islamic rituals. It is not law but it is source of law.<sup>87</sup>

However, the amendment was not accepted by government. Next amendment was moved by Liaqat Baloch (JI) in which he demanded that court should decide cases according to *Shariah*. If a question is raised before a court that a law or provisions of law is repugnant to *Shariah*, the court should refer it into Shariat court and Shariat court decide it within 60 days.<sup>88</sup>Chaudhry Amir Hussain opposed the amendment and it was rejected by the speaker of National Assembly of Pakistan.

The next amendment also came from opposition side and Syed Naveed Qamar was the mover. He demanded that the rights of appeal in court should be protected because Islam does not curb the rights of citizens at all.<sup>89</sup>Again the amendment was opposed by Chaudhry

Amir Hussain and rejected by Speaker. However, the opposition was not ready to leave the government and more amendments were moved by Aitzaz Ahsan in which he demanded that the clause 15A (1) should be inserted in the Bill and that clause was regarding the basic necessities of life. He said that Islamic State must provide basic necessities of life to the people. He mentioned basic necessities of life like food, house, and clothes that should be provided by the State to its citizens. The other members of the opposition were also grand supporters of amendment but it was all in vain government rejected the amendment without any consideration.

Syed Zafar Ali Shah had also moved amendment in which he said; that a commission shall be appointed consisting of representation of all the known sects of the Muslims residing in Pakistan to suggest principles of interpretation of *Quran* and *Sunnah*, legislation shall be enacted upon their unanimous opinion.<sup>90</sup> But Chaudhry Amir Hussain opposed it and called it against the Rule of 99. On the basis of that it was rejected. The next amendment was also moved by Syed Zafar Ali Shah again in which he said; “That paragraph 4 of the preamble of the Bill as reported by the select committee, be substituted by the following namely; ‘where as it is not of the fundamental obligations of the Islamic State to protect the honour, life, liberty and the fundamental rights of the citizens as guaranteed under the constitution.’”<sup>91</sup> But very astonishingly, Chaudhry Amir Hussain did not oppose the amendment. At last the forum opened for general discussion on the bill in which Muhammad Ajmal Khan Khattak (ANP) passed his comments and called it against the *Shariah*. At the very last, Chaudhry Aitzaz Ahsan concluded that all schools of thought, women and minorities have rejected the bill.<sup>92</sup> Amnesty International organized women rights day on March 10, 1991 in which Asma Jehangir criticized *Shariat* bill and said, “The proposed bill is supra-constitutional legislation which would erode the powers of courts, the Parliament and the Government and even the holding of elections would be in jeopardy.”<sup>93</sup> She further elaborated that it would promote religious factionalism and usurps the minorities’ rights. The bill would turn parliamentary

democracy into presidential system.<sup>94</sup> However, despite all opposition, the government passed the Bill and did not accept the amendments and proposal of the opposition, although the bill could not become part of constitution due to rejection of Senate.

### **3.8- Ordinances Present After Calling of National Assembly Session**

Sultan Ahmed political observer wrote an article in *Muslim* Islamabad in which he said “it seems almost impossible for the government to resist the temptation of ruling the country through ordinances, however undemocratic or improper is when that that is done in excess.”<sup>95</sup> In Pakistan, the democratic structure had remained always feeble and executive powers have remained authoritative because the country was ruled by martial law most of the time. Pir Pagarao had called the IJI government “civilian martial law.”<sup>96</sup>

The passport Ordinance of 1991 had been promulgated only 12 days before the commencement of National Assembly session.<sup>97</sup> While PPP leadership was making hue and cry against ordinance, Benazir Bhutto said, “The Ordinances were aimed at crushing political opponents of the government and to involve them in false case.”<sup>98</sup> Chaudhry Muhammad Altaf Hussain (PPP) moved the Privilege Motion against issuance of Ordinance. The privilege of entire House had been violated in this respect and by a design that was quite transparently an effort that had been made to bypass the House by promulgating these ordinances in undue haste just a day or so before the session of this House.<sup>99</sup> Aitzaz Ahsan had stated that it was a matter of very grave and great concern to this House that such laws were being promulgated and re-promulgated without being presented to the House, bypassing the highest elected legislature. Sardar Farooq Ahmed Leghari supported the privilege motion of the opposition and highlighted that the motion was moved by collectively of ten members. He explained that issuance of Ordinance was undemocratic. The opposition was against the Ordinances mode of legislation and called it a severe attack on the right of Parliament, while the Treasury Benches were not ready to accept the claim of opposition. Chaudhry Abdul Ghafoor said that PPP government had issued lot of Ordinances

during its era. But Sahabzada Muhammad Nazir Sultan (PPP) said that on one side government wanted to bring *Shariah* in the country and on the other side was not observing the basic institutions that promoted the democracy. Judiciary, press and Parliament were the main pillars of democracy. Amongst all three, Parliament was supreme. Haji Sarfraz Khan said that if the affair of government could be run through ordinances then parliament was not important and was not needed. However, the government was not ready to accept the stance of opposition and mentioned the constitutional Article 89 that granted power of issue of Ordinances. In a nutshell, when the opposition was in power, it had also issued many ordinances, but it was now opposing the same.

### **3.9- The Zakat and Ushar (Amendment) Bill-1991**

General Muhammad Zia-ul-Haq introduced *Zakat* system in 1980 and called it “an essential pillar of Islam’s welfare system.”<sup>100</sup>The preamble of Ordinance stated that “The prime objective of collection of *Zakat* and usher and disbursements there form, is to assist the needy the indigent and the poor.”<sup>101</sup>*Zakat* is integral part of Islam that is collected from Muslims and distributed into Muslim. *Zakat* is to be paid once year during the month of *Ramadan*. *Shia* sect had some reservation about the collection of *Zakat* by government. They believed that government did not have a right to collect *Zakat*; it was responsibility of individuals.<sup>102</sup>In Pakistan major portion of *Zakat* is collected from saving of people from banks and distributed through professional civil servants and unpaid volunteers. *Zakat* committee members were chosen through open election but actually it is not election but it is selection.<sup>103</sup>

*Zakat* committees have very vast and discretionary powers regarding disbursement *Zakat*. Naeem Hussain Chatta (IJI) moved the Bill and Syed Zafar Ali Shah (PPP) raised objections to it and demanded that government should give proper time for consideration the Bill. Syed Naveed Qamar (PPP) also opposed the bill. Syed Zafar Ali Shah pointed out lot of vices in system of *Zakat* and mentioned corruption endemic to the *Zakat* system. *Zakat* was

distributed on political basis and needy always remained deprived of *Zakat*. It was argued that the elected persons should always run the system of *Zakat* rather than those who had been nominated. Chaudhry Muhammad Altaf Hussain pointed out that *Zakat* was mostly collected through Banks and the amount that collected was mixed with interest and suggested that the government should adopt *Khulfa-i-Rashidin* system in implementation of *Zakat*.<sup>104</sup> Mawlana Muhammad Siddique Shah JUI (F) criticized the *Zakat* and said that government did not have right of collection because it was not Islamic government. He also mentioned interest that is involved in the *Zakat* when it is collected through Banks. *Zakat* can play very positive role if it separate from national politics and Islamic fantasy.<sup>105</sup> However, government passed the Bill without giving importance to the opposition.

### **3.10- The Transfer of Managed Establishments (Amendment) Bill-1991**

The policy of denationalization had been started during the era of General Muhammad Zia-ul-Haq. But in that time Ghulam Ishaque Khan was minister of finance who was not fully satisfied with private sector. Therefore the process of privatization remained slow and limited.<sup>106</sup> The privatization policy of Nawaz Sharif was the continuation of Zia's economic policies. Nawaz Sharif formed committee for privatization purpose. The committee had granted approval of the sale of one hundred public companies in private sector.<sup>107</sup> He adopted policy to promoting economic progress of country but he sold industrial units, commercial institutions to his friends and family at very low price.<sup>108</sup> His bias could be seen during the sale of Muslim Commercial Bank (MCB). The Memons Adamjee family was the previous owner of MCB and they had very strong wish and will to buy the MCB at very good price but Nawaz Sharif sold it to the Mensha National Group Chinioti Punjabi at very low price.<sup>109</sup> First privatization commission was established by President on July 22, 1991.<sup>110</sup> Sartaj Aziz moved motion in National Assembly; it was opposed by Chaudhry Muhammad Altaf Hussain (PPP). He said that there was no positive guideline in the Bill that provided way to transferring organization to higher bidder. If we go through bill it is replete with defects and

it is essential that this type of Bill should rather go back to the either to the same committee so that defects can be cure.<sup>111</sup>

Makhdoom Syed Alam Anwar (PPP) there was a crisis of confidence as a result of the calamity which perpetrated by mismanagement of the finance institution and if they transferred the management to the private sector at this juncture all those vital institutions, which were playing vital role for the economic growth and economic development at this point when the people have lost confidence.<sup>112</sup> Syed Zafar Ali Shah (PPP) Government wanted to sell 150 industries. It was called the Juma bazaar of the government sale of its own ownership.<sup>113</sup> The mode of sale should be very clear and fair. MCB was sold to low bidder; government always does violate the rule of sale. “Justice should not only be done but it should be seen to have been done.”<sup>114</sup> Government should publish such kind of legislation before the final passing of the bill so those public is aware of the objective of legislation. In the last he suggested that government should stop the sale of Banks, as otherwise the whole system of economy would collapse. The opposition strongly opposed the bill but the government decided to pass the bill anyhow.

### **3.11- The Pakistan Bait-ul-Mal Bill-1991**

Before the advent of Islam, people lived miserably and slavery was rife, leading to financial crises and injustice in society. Islam first time introduced concept of *Bait-ul-Mal* to bring relief to subjugated, miserable, economically deprived individuals as well as poor classes.<sup>115</sup> The Welfare State concept had been derived from the history of Islam; it is first and foremost responsibility of welfare State to provide basic need of people without any discrimination.

In order to serve needs of the poor, the *Bait-ul-Mal* was established during era of Hazrat Omer Farooq (R.A). Major purpose of *Bait-ul-Mal* had to provide basic necessities of people.<sup>116</sup> In Pakistan welfare fund as well as *Bait-ul-Mal* was established under the section 03.<sup>117</sup>

The main functions of *Bait-ul-Mal* were as under;

1-To provide economic aid to needy persons especially destitute people, widows, orphans and poor people and, 2- to rehabilitate of poor, unemployment and widows to provide cash as well as sources generating instruments.<sup>118</sup> Abdullah Dada Bhoi wrote article in *Pakistan Times* Rawalpindi in which he said, "It is pleasing to note that present Government is also determined for making country a welfare State for which certain measures have been taken since its induction into power. The most significant step of the present government is the establishment of *Bait-ul-Mal* which is not full achievement of the goal but yet it is a beginning towards the destination."<sup>119</sup> Minister for Finance Sartaj Aziz had moved the Bill and described the importance of the *Bait-ul-Mal*. It would be helpful to needy and poor citizens of Pakistan. Mawlana Hassan Jan JUI (F) opposed the Bill. According to him, the *Bait-ul-Mal* was not necessary and instead of establishment *Bait-ul-Mal*, the government needed to bring major reforms in *Zakat* system.<sup>120</sup>

Mawlana Muhammad Khan Sherani (JUI) (F) also criticized the Bill on these grounds;

1- Government had lost its rights of collection of tax because it had failed to protect the citizen. 2- In past *Zakat* was used for political gain now *Bait-ul-Mal* would be used for that purpose. 3- It will be new tax on the masses of Pakistan and that would be great injustice. In last the bill must be refer to Council of Islamic Ideology.<sup>121</sup> Mawlana Muhammad Siddique JUI (F) said in the Presence of National exchequer *Bait-ul-Mal* had not needed. Government passed the bill at last.

### **3.12- Adjourn Motions regarding Violation of Fundamental Rights of Masses**

Chaudhry Muhammad Altaf Hussain (PPP), Syed Faisal Saleh Hayat (PPP), Sahibzada Muhammad Nazir Sultan (PPP), Muhammad Afzal Khan (PPP), Syed Pervaiz Ali Shah Jilani (PPP), Sardar Farooq Ahmed Khan Leghari (PPP), Ihsan-ul-Haq Piracha (PPP), Syed Khurshid Ahmed Shah (PPP), Syed Zafar Ali Shah (PPP) and Syed Naveed Qamar (PPP) were the chief movers of the adjournment motion. The subject matter was *lathi* charge and



tear gassing on the non-violent protestors outside the Parliament House. Chaudhry Muhammad Altaf Hussain alleged that the press personnel were not spared. The issue was that if the people did not have to get their rights then they had right of protest and that right was not curbed in British period. To record protest for their rights is fundamental and natural right of people. On the basis of that motion must be admitted.<sup>122</sup>

On the Government side Chaudhry Amir Hussain stated that he did not have information about issue, so it should be suspended for some time. Syed Pervaiz Ali Shah (PPP) and Hamza (JI) countered the statement of the Minister and assumed that through such delay tactics government wanted to waste the precious time of the House. An interesting Speaker admitted the argument of Mr. Hamza and quoted constitutional Article 91(4): "The Cabinet together with the minister of State shall be collectively responsible to the National Assembly."<sup>123</sup>

On the next proceeding that was started on February 9, 1992 in which Chaudhry Aitzaz Ahsan had moved the same motion that was opposed by Minister for Law Chaudhry Abdul Ghafoor, Aitzaz Ahsan expressed his views and said that in all over the world people come at the gate of parliament for recording their protest and grievances. In this incident the protesters were innocent and unarmed but the government used power against them. Muhammad Afzal Khan alleged that the institutions were being used for wrong purpose by government. Parliament was considered very peaceful and a forum for freedom of expression in the country and those who had believed in democracy should respect the Parliament. Now days in the country everybody was doing wrong in the name of security issue. Moreover, our police were involved in crime activities.<sup>124</sup> Syed Zafar Ali Shah said that Police had used illegal powers and also violated the privileges of the members. Syed Naveed Qamar was also in the favour of the motion. Chaudhry Abdul Ghafoor minister had protected the act of police and said that police had warned the PDA workers but they did not observe the warning of the police.

Furthermore, they used power against the police and injured one Deputy Superintendent Police (DSP) police and Magistrate. The case was registered against unknown persons on December 19, 1991 under FIR No 219. On these grounds police used *lathi* charge and tear gas.<sup>125</sup> However, government did not admit motion.

### **3.13- Anti Pakistan Statement of Ghulam Murtaza (G. M.) Syed**

Ghulam Murtaza (G. M.) Syed was a very stubborn opponent of Pakistan. In 1988 IJI had alleged that PPP secured votes in general elections 1988 with the help of G. M. Syed and his party. While later on IJI had offered ministries G. M. Syed to defeat PPP in Sindh.<sup>126</sup> In history of Sub-Continent, he had formed Sindh Muslim League and became president of Sindh Muslim League. He supported Pakistan Resolution in 1938 in Sindh Assembly. But when Quaid-i-Azam supported Sir Ghulam Hussain Hidayatullah, he parted ways with Quaid-i-Azam. He had written books' *Now Pakistan should break up* and *How Sindhu Desh be established*.<sup>127</sup> He was in Jail when General Muhammad Zia-ul-Haq met him personally and released him from Jail. Zia wanted to use him against PPP.<sup>128</sup>

In the first term of Benazir Bhutto government, he was arrested in the case of flag burning case but caretaker government released him. Jam Sadiq Ali awarded him certificate of patriotism but G. M. Syed did not change his mindset and criticized Pakistan on July 17, 1992 at the eve of his 89<sup>th</sup> birthday in Karachi. In the result he was arrested and till his death on April 25, 1995 remained under arrest in his house.<sup>129</sup> Muhammad Altaf Hussain (PPP) moved adjourns motion regarding anti Pakistan statement by G. M. Syed. Chief of *Jiye Sind Tehrik* had demanded separation of Sind, Baluchistan and Pakhtunistan on Friday January 17, 1992 in public meeting at Nishtar Park Karachi. It is matter of serious concern that secessionist element supported by Sind government dignitaries have publically announced and demanded the disintegration of Pakistan which amounts to high treason.<sup>130</sup> Syed Yousaf Raza Gillani (PPP), Mr. Khurshid Ahmed Shah (PPP), Muhammad Afzal (PPP), Baboo Ghulam Hussain (PPP), Syed Zafar Ali Shah (PPP), Jam Saif-Ullah

Khan Dharjo PPP and Hamza IJI supported the adjournment motion. But Chaudhry Abdul Ghafoor had opposed the motion. The mover of motion alleged that government was supporting G. M. Syed and Provincial government had facilitated him, indirectly government is in favour of anti-Pakistan forces.<sup>131</sup> The previous government had registered case against G. M. Syed but the present government had taken back the case. Now the case must be reinstated<sup>132</sup>. Chaudhry Abdul Ghafoor explained that the case is under investigation, so the adjourn motion should convert into wise motion. Aitzaz Ahsan (PPP) used very harsh words for Minister and called him liar. Muhammad Ajmal Khan Khattak (ANP) supported G. M. Syed. According to him, in Pakistan trustworthy and nationalistic people were considered as traitors. ANP had faced such sort of such allegation but time had proved that all allegations were absolutely counterfeit. He elaborated that G. M. Syed was leading figure in movement of Pakistan. It was said that without judicial inquiry calling him traitor was not justified.<sup>133</sup>

Islam provides chance of self defence to accused. Issues should be debated in the National Assembly but it should be decided in the Court.<sup>134</sup> Hamza IJI one side was supporter of motion and other side was criticizing PPP. He alleged that in history Z. A. Bhutto was supporter of G. M. Syed and he had nominated him as leader of delegation that was going India for dialogue on various issues. Even Bhutto administration had issued special passport to the son of G. M. Syed and Syed Zafar Ali Shah was main facilitator in that context.<sup>135</sup> In spite of opposition of government the speaker of National Assembly had used his power and admitted the adjournment motion.

### **3.14- Islamabad Rent Restriction Bill-1992**

Syed Iftikhar Hussain Gillani PPP moved the bill with help of nine other members as private bill on October 16, 1991.<sup>136</sup> Bill will grant right of appeal in High Court against the order of Controller.<sup>137</sup> The traders of Federal area have great wish to implement the Act of rent and they had observed protest rallies in the favour of bill.<sup>138</sup> The bill granted rights of appeal of

both parties in High court within thirty day.<sup>139</sup> The bill would provide provisions that will cover the rates of rent in the city and will restrict the increase in rates within two years.<sup>140</sup> Mr. Aitazaz Ahsan (PPP) had supported the bill. He highlighted the corruption of land mafia; powerful elements were misusing law and were collecting money. For instance corruption over plot was at a peak. Sheikh Rasheed Ahmad (IJI) countered statement alleged that the plots corruption was started first time in the era of Zulfikar Ali Bhutto.<sup>141</sup> Aitazaz Ahsan walked out in response to Sheikh Rasheed Ahmad's statement.

Syed Zafar Ali Shah (PPP) had elaborated the objective of bill as under;

1. To make provision for fixation of fair rent and disallows increase in rent before two years.
2. To make restriction on the eviction of the tenants, exception the grounds and in the matter specified in the Act.
3. Prohibits the Landlords from claiming or receiving any premium or any other sum in addition to fair rent.
4. Provides appeal to the High court against the order of the controller.
5. To provide penalty for violation of the provisions of the Act or the Rules made there under. He highlighted the violation of fundamental rights of tenants.<sup>142</sup> The Government rejected the bill.

### **3.15- The Pakistan Penal Code Amendment Bill- 1991**

Chaudhry Abdul Ghafoor (IJI) had moved the bill for amendment as passed by Senate, Syed Zafar Ali Shah (PPP) had demanded that it should be referred to Standing Committee because it had completed its 90 days after passing from Senate. Without proper consideration effectiveness of bill would be suspected. Mawlana Muhammad Hassan Jan JUI (F) demanded that the bill should be referred to Council of Islamic Ideology and with the report of Council it should be presented in the House.<sup>143</sup> Aitazaz Ahsan stated that government wants to insert word ideology in law but in law dictionary the word Ideology

had no precedent. In political history of Pakistan it was not issue as such. In 1961 Ayub khan had passed the legislation on that issue but he had faced lot of opposition in the shape of agitation movement. In 1977 Martial Law Order No 11 badly affected political workers in that connection, and especially Begum Nusrat Bhutto faced lot of miseries.<sup>144</sup>

Later on, that law was used against political purposes and it victimized many people on the name of Ideology. Minister of religious affairs *Mawlana* Abdul Sattar Niazi (JUI) rejected the arguments of Aitazaz Ahsan and quoted the Quaid-i-Azam, “Muslim will cease to be Muslim, Hindus not in political but religious sense.<sup>145</sup>” Quaid-i-Azam had written a letter to Gandhi in 1944 in which he clearly highlighted the ideology; “ We have got separate culture, separate civilization, separate policy separate traditions separate values of life, separate religion, separate law and we were separate nation.<sup>146</sup>” Its means, if we deny ideology then we will deny Pakistan. Liaquat Baloch quoted the Constitution Article 2, “Islam shall be the State religion of Pakistan. The principles and provisions set out in the Objectives Resolution reproduced in the annex are hereby made substantive part of the constitution and shall have effect accordingly.”<sup>147</sup>

So, it is pure like snow and somebody wants to create ambiguity consciously. Mawlana Muhammad Siddique JUI (F) said that Islam is complete code of life, and in that sense Ideology of Pakistan is the Ideology of Islam. Muhammad Abdullah Ghazi (IJI) said that in our country punishment is fixing for theft but violation of ideology punishment is not fix. However, opposition as well as government maintained its stance and government adopted that motion in spite of opposition.

### **3.16- Bonded Labour System (Abolition) Bill-1992**

The Senate had passed bill on bonded labour on October 21, 1991 unanimously.<sup>148</sup> Muhammad Ijaz-ul-Haq (IJI) had moved “That the bill to provide for abolition of bonded labour system (abolition) Bill as passed by the Senate be taken into consideration. It would be helpful to abolish the crises of bonded labour. The violation of Act would be punishable 2

to 5 years imprisonment.<sup>149</sup>Ijaz-ul-Haq clarified that Pakistan had attended International Labour Organization (ILO) convention of human rights that was against bonded labour.<sup>150</sup>

In rural areas bonded labour was common. The landlords, kiln owners and several others capitalist were getting services of poor class at very low price. Although the Constitution Article 11 clause 2 provides protection to labour class but poor class was being exploited by capitalists. For safety of labour class more legislation was needed. The current Bill considered all agreement null and void with labour on basis of these;

1. In consideration of an advance obtains by him.
2. In pursuance of any customary or social obligation.
3. For any economic consideration received by him.<sup>151</sup>

Moreover, Constitution Article 11 prohibits slavery and forced labour already.<sup>152</sup>Akhundzada Behrawar Saeed, Shahzad Gul and many other Senators condemned the bonded labour and supported the bill. They demanded effective implementation of Act without leniency.<sup>153</sup>

Syed Iftikhar Hussain Gillani (PPP) announced that opposition would co-operate on that issue. After that the motion was adopted, Syed Zafar Ali Shah had moved that in clause (2) of the bill and said that it was greatly cruel because bonded labour mostly existed in the rural areas. He said that “For any project gratification or protection which is liable to provide such profit or gratification in economic under obligation of the creditor by way of fear intimidation blackmail or promise or undue favour.”<sup>154</sup>Bill to provide for abolition of bonded labour system had been passed. Opposition and government collaborated within that area.

### **3.17- Resolution Regarding Steps to Control the Increasing Prices of Commodities**

According to survey of United Nation Development Programme (UNDP) Pakistan ranked low at 132 in the list of 173 countries of the world. In Pakistan infant mortality rate is 101 per thousand live births. Only 85 Percent of population had access to health care and 50 %

had no access to clear water. Moreover, 78% population is living without sewerage facility. Actually government was spending only 0.8% GDP on health sector.<sup>155</sup>

Syed Ifikhar Hussain Gillani (PPP) moved following resolution; “This House is of the opinion that the Government should take immediate steps to control the increasing prices of essential commodities in the country.”<sup>156</sup> Naveed Qamar (PPP) alleged that government had failed to keep transparency in privatization that is why inflation rate had been increased in country.<sup>157</sup> Sardar Farooq Ahmed Khan Leghari (PPP) had pointed out the huge cabinet of IJI and its expenses. Liaquat Baloch highlighted the poor condition of agriculture and suggested that government should form committee on it.<sup>158</sup> Syed Muhammad Aslam MQM Haq Parast Group (HPG) highlighted deficit of budget that always created hurdle in development and growth. Pakistan was paying eighty to ninety billions rupees against loan interest. Our eighty Percent budget is spending on defence while 123 or 130 billion rupees is total revenue collection. In such position how can we control the rate of inflation?<sup>159</sup> Muhammad Ashraf Warraich People Democratic Alliance (PDA) demanded that government should constitute committee on price control issue and common people also should be included in the committee. He further said that government should trace out the real culprit. Hamza (IJI) was also in the favour of resolution. Baboo Ghulam Hussain (PPP) said that reducing price was election stunt of IJI but now government should form the committee on that issue. Mian Muhammad Usman (IJI) was also in the favour of resolution. Syed khurshid Shah (PPP) said that it was a very serious issue and government should pay attention to it. The 66 Percent population of country was very poor that were facing lot of miseries of life due to high prices of commodities. IJI had promised during election campaign that if it would take charge of government it would take measure to reduce the price of basic necessities. Government should increase the salary of labor minimum up to 3000 rupees. Makhdoom Syed Ahmed Alam (PPP) said that the increase of prices was due to nonproductive expensive budget of government that is used on government Ministers. Minorities members Father Rufin Julius,

Tariq C. Qasir etc. criticized government in press conference on July 31, 1991 in which pointed out inflation rate that is going raise up to 35% while IJI had announced package for poor during election campaign.<sup>160</sup>

Mian Abdul wahid criticized the nationalized policy of PPP government during Z. A. Bhutto's period. Aitzaz Ahsan also criticized the policies of government and highlighted the expenditure of government. Raja Zaheer Khan IJI pointed out that government had increased PM office budget up to 66 percent and that is cruelty against poor people. Abdul Sattar Bachani (PPP) observed that the government should eradicate the corruption from government department. Government had collaborated with and accepted the resolution.

### **3.18- The Transfer of Managed Establishment (Second Amendment) Bill-1991**

Adam Smith is considered to be the father of free market economy. He had written book *an inquiry into the Nation and causes of wealth of Nation* in 1776 in which he advocated free market economy.<sup>161</sup> At the time of partition, Pakistan economy was agriculture base its contribution was 60 % while industry participation was only 6%.<sup>162</sup> In development of country the role of private sector was tantamount while public sector role was very limited. Ayub Khan encouraged private sector, dismantled control on prices and profit margin that attracted new investor in industrial sector.<sup>163</sup>

Z. A. Bhutto had introduced new philosophy of nationalization in economy of Pakistan first time that struck the growth of economy at once.<sup>164</sup> General Muhammad Zia-ul-Haq introduced privatization policy and formed committee in October, 1978. On recommendation of committee Zia issued Transfer managed Establishment Order No 12 of 1978.<sup>165</sup> The Senate passed bill regarding Managed Establishment on November 14, 1991.<sup>166</sup> Senator Iqbal Haider (PDA) criticized bill and alleged that Government was undertaking privatization under the pressure of IMF and World Bank.<sup>167</sup> Nawaz Sharif had advocated privatization before and during election campaign of 1990. As he took charge of government, he had quickly tried to restore confidence of the business community.<sup>168</sup> He had



taken radical steps to change the scenario of economic of Pakistan. He denationalized huge and inefficient industrial units and allowed new banks to form in private sector. He rationalized the investment rules and tried to free them from bureaucratic intervention.<sup>169</sup>

Chaudhry Amir Hussain had moved “That the Bill further to amend the Transfer of Managed Establishment Order 1978. As reported by the Standing committee is taken into consideration at once.”<sup>170</sup> Syed Zafar Ali Shah had opposed the bill. Chaudhry Muhammad Altaf Hussain was also against the bill He said that the bill had lapsed because it was originated by Senate and could not get approve within ninety days. He had mentioned constitutional Article 72; “If a bill transmitted to a House under clause (1) is rejected or is not passed within ninety days of its receipt or is passed with amendment the bill at the request of the House in which it originated, shall be considered in a joint Sitting. If a request is made under clause (2), the President shall summon a joint sitting, and if the bill is passed in the joint sitting with or without amendment by the votes of the majority of the total membership of the House, it shall be presented to the President for assent.”<sup>171</sup> He called it ‘fraudulent legislations.

The Constitution lays down that if a bill originates from one House, it goes to the other. The other House either amends it or does not pass it or it lapses because of the non-prosecution or by not properly pursuing. In that state of affairs, the result would be that the bill lapsed.<sup>172</sup> Such a bill can be introduced only after the House agrees to suspend the rules and there is no request for any suspension. Chaudhry Amir Hussain defended the government and said that now according to rules the bills can be introduced in both Houses. Finance Minister (Mr. Sartaj Aziz) explained that there were two ordinances 15 and 33 on subject matter and that can be discussed in any House.<sup>173</sup> Makhdoom Shahab-ud-din said that the constitution is absolutely clear and there is no ambiguity. Syed Zafar Ali Shah had raised objections that the government had passed one bill already, now new bill is not needed. The bill should be circulated in the public for general awareness. He quoted Rule 95 “At this stage amendment

to the bill may not be moved but if the member in charge move that bill be taken into consideration or referred to a select committee any member may move as an amendment that the bill be circulated for the purpose of eliciting public opinions thereon by a day to be specified in the motion.”<sup>174</sup> Government should send bill for further consideration to select committee. The major purpose of legislation is to provide welfare to the citizen and through such way it would be more useful for the masses. *Mawlana* Muhammad Khan Sherani JUI (F) believed that speaker should not grant permission of debate on bill until its ambiguity was removed and Council Of Islamic Ideology should not pass the comments on it. The privatization policy improves economic position of the country. The GDP increased and 6.4 % manufacture rose up to 7.7% while agriculture growth had increased 6.4% and investment ratio also increased up to 17.6%.<sup>175</sup> Moreover, through economic policy of government had brought down inflation rate 6.9 % and reduced budget deficit 8.8%.<sup>176</sup> The opposition was demanding that the process of privatization should be under the judiciary.<sup>177</sup> However, the bill motion was adopted in spite of all opposition.

### **3.19- Special Courts for Speedy Trial Bill-1991**

The IJI government was facing problem of terrorism, law and order worse position in the country. The Afghan war had led to incidents of violence, robberies dacoits and car snatching etc. in country. The Islampura Lahore and Sheikhpura murders convinced government to bring amendment in law.<sup>178</sup> Opposition was criticizing government on the issue of law and order and demanded formation of national government. Nawaz Sharif addressed nation and declared that government will handle crimes with iron hand.<sup>179</sup> As bill had passed Nawaz Sharif commented on, “In future nobody would dare to play havoc with the lives of innocent citizens.”<sup>180</sup> The bill was criticized by legal circles and they considered it black law which would restrict the jurisdiction and freedom of higher judiciary.<sup>181</sup> Syed Pervaiz Ali Shah Gillani, Chaudhry Muhammad Altaf Hussain, Muhammad Afzal Khan, Aitazaz Ahsan, Aftab Shahban Marani, Syed Iftikhar Hussain Gillani members of PDA and

Several other opposition members had moved the amendment in the bill clause 2 at the stage of second reading. Minister for Law and Justice Chaudhry Abdul Ghafoor had opposed the amendment. Syed Iftikhar Hussain Gillani stated that there is very strong and logical reason for that amendment. Now let us see the Para as proposed by the committee on power of special court is very serious issue. Under constitution there is a dichotomy of powers<sup>182</sup>. Laws should be very precise because ambiguity would be dangerous. Syed Naveed Qamar pointed out complexity of language in bill and mentioned the non-clarity of crimes that would be trial under special court; it would be misused and will create panic in society.<sup>183</sup> Syed Zafar Ali Shah criticized and alleged that plan of government is not only to abridge the rights of the citizens but also to go even beyond the constitution. He quoted the Constitution: “Within 10 years from the government day. And now it may be that another period had been extended by the martial law Chief Administrator but it says that ,” Within ten years Judiciary shall be separated from executive.<sup>184</sup>” Mian Anwar-ul-Haq Ramy (JI) had moved the amendment in the clause 3 of the bill. Syed Zafar Ali Shah had opposed the amendment but it was adopted by the House. Syed Zafar Ali Shah criticized the amendment and said that such type of legislation would snatch the freedom of Judiciary and he had moved the amendment that was related to appointment of judges in which he demanded that the consultation word must be deleting.<sup>185</sup> It was intervention in the court system. So, the word consultation should be deleted from the bill.

Syed Naveed Qamar (PPP) criticized the mode of appointment of Judges that created mistrust amongst masses. Mr. Aitazaz Ahsan described the history of word consultation and said that this word came from 1935 Indian Act. Sardar Farooq Ahmed Leghari and many other were also in the support of the opposition's stance. However, Chaudhry Abdul Ghafoor was not ready to accept and quoted constitutional Article 193: “A judge of a High court shall be appointed by the President after consultation with chief justice.”<sup>186</sup> So, government is working under constitution umbrella. The next amendment was moved by Syed Zafar Ali

Shah regarding sub clause 4 of the bill that was related to transfer of judges' one court to other court.<sup>187</sup> He explained that government wanted to control the whole judiciary through the bill because government had entire power to appoint and transfer the judges to one court to other court even to *Shariat* Court.

However, the amendment was not admitted. The next amendment was also from opposition side that was moved by Syed Zafar Ali Shah, in which he said, "That in clause 6 of the bill as reported by the Standing committee, the word, in the interest of justice or occurring in the second line is deleted."<sup>188</sup> He further mentioned that case transferring power should be given in the hand of judiciary not in the hand of government. But the motion was not accepted. Syed Iftikhar Hussain Gillani was against the mode of punishment and condemned the hanging of dead body in the public place. He said that humiliating the body is like humiliating the human being. After the death of human beings, they do not need to hang in the public place. So the concerning section must be deleted at once<sup>189</sup>.

Moreover, the world scenario is changing absolutely and modern world does not like such sort of sentences. The whole world is against the death sentence. Therefore Parliament should not pass the clause regarding death punishment.<sup>190</sup> In Senate PDA Leader Iqbal Haider criticized government on the issue of public hanging on November 14, 1991.<sup>191</sup> According to his, public hanging would lead to anxiety among people and it is against the charter of UNO. He said, "It will tarnish the image of Pakistan on the international level and human rights organization will point their accusing fingers towards Pakistan."<sup>192</sup>

On December 12, 1991 Amnesty International criticized Special Court bill and demanded that government must repeal it because it does not fulfill requirement of justice. Amnesty urged government to suspend all sentences that have been granted by special court.<sup>193</sup> Dr. Maleeha Lodhi wrote against it. She said, "Finally Nawaz Sharif's unstructured style of governance has created problems in both decision making and implementation. This

monarchical style in which decision making is limited to a cabal around the Prime Minister's court led the government into making costly mistakes. It blundered into 12<sup>th</sup> Amendment in this manner and also arrived at the decision to start public hanging by this route.”<sup>194</sup> Mawlana Ali Akbar (JUI) had defended the sentences and said Saudi Arabia punishment system is the best example in the world. But Aitazaz Ahsan severely criticized the Saudi Arabia and called it grand monarchy which is totally opposite to democracy.<sup>195</sup> Chaudhry Muhammad Altaf (PPP) called it discrimination law that cannot consider good law. Syed Naveed Qamar had moved the amendment in the clause 10 but, Asad-ur-Rehman had opposed it. Chaudhry Muhammad Altaf Hussain supported the amendment and said that the clause 10 will grant discretion power to government and it would be intervening in the Judiciary system. The next amendment was in clause 12 that was moved by Zafar Ali Shah (PPP) in which he said, “That the word ‘Rigorous’ occurring in the second line be omitted and between the words ‘imprisonment’ and ‘for occurring in the second line the words ‘of either description be asked inserted.”<sup>196</sup>

Chaudhry Abdul Ghafoor said that clause 12 is related to contempt of court and the mover was reading it incorrectly. Syed Zafar Ali Shah said that in fair society, contempt of court did not have any importance. Chaudhry Muhammad Altaf Hussain said unfortunately the law of contempt is the most ambiguous law. The entire phraseology which had been adopted and used in this bill that makes the special courts something as so sacred.<sup>197</sup> However, Chaudhry Abdul Ghafoor explained the position and said that contempt of court law is same law that exists in High court and Supreme Court proceeding. The opposition's amendment regarding contempt of court had been rejected by the government. Syed Naveed Qamar had alleged that the Standing Committee's original report had not presented in the House. He said, “At the conclusion of the session it transpired that the Bill and the report that was presented to us on which we had been debating for two or three days is not actually the report which was passed by the standing committee concerned on the speedy Trials Bill.”<sup>198</sup>

But Abdul Ghafoor did not accept the allegation of opposition. The next amendment was moved by Liaquat Baloch in which he said that the report of standing committee is repugnant to injunction of Islam and it should be referred to Council of Islamic Ideology for further advice.

However, Abdul Ghafoor had opposed the amendment. Mian Anwar-ul-Haq (IJI) was also in the favour of amendment. He highlighted that Article 227 of constitution that is related to injunctions of Islam. The laws that were repugnant to Islam would be null and void. The opinion Council of Islamic Ideology should be observed it and Treasury Benches should also accept the demand of opposition. In spite of all discussion, the government did not accept the amendment. The majority of opposition was against the bill and called it black law and chain of martial law. The bill was criticized on three grounds; first the belief in restoring law and order with extraordinary power sounds ridiculous and smacks of an obsession for unchecked powers which can be applied to eliminate what rulers considered as an obstacle.<sup>199</sup>Second the emergency power would strike the fundamental rights and also curtail the Judiciary authority. Third, if government thought the amendment would solve problems it would be big self-deception of government. Because law and order was not administrative issue but it was political issue.<sup>200</sup> But the bill was passed despite hue and cry by the opposition.

### **3.20- Resolution Regarding Submission of Proposed Education Policy in the House**

The IJI government policies could not correct the errors of education system of Pakistan because education sector was at a very low priority of government.<sup>201</sup> During the era of Nawaz Sharif material resources of education remained in short supply.<sup>202</sup> M.K Akbar has written in his book *Pakistan from Jinnah to Sharif*, “In contemporary Pakistan the universities and colleges have become armed camps. Teachers are abused; pedagogy has only limited purpose and examination system suspect.”<sup>203</sup> Javed Iqbal Abbasi had moved the resolution regarding education policy in National Assembly. According his statement

majority schools in government sector are without basic facilities as well as staff. Moreover, teaching staff is less qualified and trained, especially in the rural areas.<sup>204</sup>

Mian Anwar-ul-Haq (JI) explained that three types of education systems that have divided society in various sections. Moreover our education policy is not according to our National Ideology. Our National language is *Urdu* that should be preferred at all level of education<sup>205</sup>.

Khaliq Dad Khan pointed out down fall quality of education and mentioned unfair means in examination. Government should take steps to controlling the situation first. Mian Syed Hamid Saeed Kazmi JUP (N) said that Council of Islamic Ideology had recommended some points; Government must observe the recommendation at top priority basis. Tariq C Qasir pointed out worse impact of nationalization policy of 1972 that nationalized some Christian institutions like F.C College Lahore, Kinnaird College Lahore and Mary College Sialkot etc. He demanded that government should return institutions to their owners and minority quota should be observed. Mian Atta Muhammad Qureshi JUP (N) had proposed that government should lift the ban from the jobs of teaching staff. Secondly primary education should extend up to eight classes. Our primary education is deteriorating and primary staff is inefficient. Furthermore, our literacy rate is below even Sri Lanka and Philippines because Sri Lanka literacy rate was 98 Percent and Philippine had 75 Percent. Primary education must be necessary and in the violation of that government must register cases against them.

Chaudhry Amir Hussain defended the policy and said that government had keen focus on education policy of 1979 and it will not repeat the mistakes of that policy. The new policy will increase the number of primary as well as *Masjid Maktab* schools in the country. Government is focusing on infrastructure as well as quality of education and nearly wants to launch teacher training program in the country. The Government wanted to bring revolution in education sector. Dr. Maleeha Lodhi had written an article "Issue for 1993" in which she said,

Recently the government did announce a new education policy. This took two years in the making but was accompanied by no public debate. Even opposition failed to initiate

discussion on this itself a reflection of the low priority education receives from across the political divide. Grandiose in its targets, which it is unable to explain low to achieve, the policy looks to private sector participation to secure its objectives. Nowhere else in the world has the State abdicated its leading role in resolving the issue facing the country, which has yet to receive the urgent and serious attention that it deserves?<sup>206</sup>

Education was not priority of government, which was why government was spending only 2.4 % GDP during the year of 1992.<sup>207</sup> In education sector Pakistan was at bottom even in third world. According the survey of UNDP literacy rate was only 35% while enrolment ratio in primary level was only 68%.<sup>208</sup> PPP and some other opposition parties did not take part in debate. Government passed resolution in spite of severe opposition.

### **3.21- Call Attention Notice on Publication of A Map of Jinnahpur in Newspaper**

MQM was coalition partner of PPP during 1988 but it had left alliance with PPP in 1989. As MQM separated from alliance Benazir Bhutto called Altaf Hussain traitor of the Nation. While before that she had dubbed him as her brother.<sup>209</sup> President Ghulam Ishaque Khan had awarded patriotic certificate to MQM in early February, 1992. He stated, “MQM...a patriotic organization, has always made positive contribution towards security, integrity of the country and strengthen democracy in collaboration with other democratic forces.”<sup>210</sup> When army started operation “Clean up” in Karachi MQM was declared Anti State political party and blamed that it was involved in anti-Pakistan activities.<sup>211</sup> Sardar Farooq Ahmed Leghari moved motion under rule 94 read with 91, 92. The subject matter was the publication in a newspaper of a Map of Jinnah pur which seeks to dismember Pakistan and create a new State by the name of Jinnah pur. This appeared in *Jang* newspaper dated October 11, 1992. Sardar Farooq Ahmed Leghari had moved Adjournment Motion regarding the issue. Chaudhry Abdul Ghafoor said that we have no objection on the debate of issue but the motion need; it must bring in the House properly.<sup>212</sup> But Syed Iftikhar Hussain Gillani (PPP) countered the statement of Minister and said it is pure according Rule and Regulation. It needs admission on urgently basis but Speaker did not grant permission under the Rule 97. Chaudhry Aitazaz Ahsan (PPP) criticized the attitude of Speaker and called it anti opposition



behavior.<sup>213</sup> He quoted many incidents from the history in which the motion was admitted in the same cases in the same parliament. Chaudhry Abdul Ghafoor (IJI) had quoted the Rule 91; “Subject to the provision of these rules a motion for an adjournment of the business of the House for the purpose of discussion on a definite matter of an urgent public importance may be made with the consent of the speaker.”<sup>214</sup>

Farooq Ahmed Khan Leghari (PPP) said that the issue is top most urgent so motion must be admitted. In history of Sub-Continent, Indian Act 1935 also granted permission in context of admission of such sort motion. But motion was not accepted by government. On the next session of the House same motion was moved by Aitazaz Ahsan that was not opposed by government and it was admitted for debate. Sardar Farooq Ahmed Leghari raised objection and said that Prime Minister must be in session during such type of motion. Abdul Sattar Bachani (PPP) also alleged that in history Punjab Government had helped the traitors of the country. Chaudhry Muhammad Altaf Hussain said that you would be remembered that immediately on the creation of Pakistan, Patel in his arrogance said that ‘Now that the partition had been done Jinnah will have to come to me with folded hands and bended knees and beg me to reunite the country. The great leader’s reply in the language of Churchill was that: “We will fight to the last Muslim, but we will never surrender.”<sup>215</sup> At the same time, on the Northern border of Pakistan a movement was launched. “A meeting was held by the Frontier Province Congress committee presided by Amir Muhammad Khan and a Resolution was passed that a free *Pathanistan* of all *Pakhtoons* be established. The Constitution will be framed on the basis of the Islamic concept, democracy, equality and social justice. The meeting appeals to all *Pathans* to unite for the attainment of their cherished goal and not to submit to any non *Pakhtoon* domination.”<sup>216</sup> Now new conspiracy is growing against country. Makhdoom Muhammad Javed Hashmi said that the crises actually started in 1972 to 1973 in period of PPP government. Second phase started in 1990 when one pamphlet had been published on June 30, 1990 in which MQM had demanded separate Province from the

rest of Sind but PPP government did not take any action against MQM. In July, 1992 Dr. Saleem Haider wrote the book entitled *Now Sind should be divide*, but our government had imposed ban on book within 19 days.<sup>217</sup> Benazir Bhutto said from the beginning MQM had the sowed the seed of separation. There have been several regional parties in Pakistan in the past and present. Even ANP, the *Jahmoori Watan Party*, PNP, *Pakhtoon Wali*, NAP of Baluchistan or even *Jiye Sind* have not called itself National Political Party. The more than 50 Percent of top leadership of MQM is illegal immigrants from India in decade of 70s and 80s. It is well recorded that in the first period of MQM it had collaborated with G. M. Syed.<sup>218</sup> Sheikh Rasheed said PPP had collaborated with MQM during its period of government 1988. Syed Pervaiz Ali Shah said we should not criticize each other but should present positive proposal. He said Altaf Hussain had burnt Pakistani flag at the tomb of Quaid-i-Azam on 1979 and he had also delivered speech against Pakistan in Chicago on 1986. Muhammad Ajmal Khan Khattak said that the people were talking about the events before the partition. On the eve of creation of Pakistan our leader Bacha Khan himself met with Quaid-i-Azam and admitted Pakistan. He said that PPP was calling him traitor but during its government period they included us in government. It is purely propaganda if it is real issue than it should be referred to the court. G. M. Syed cannot be traitor until court declared him traitor. Discussion ended without any result. In nutshell, the government and opposition collaborated on that issue to some extent.

### **3.22- The Political Parties (Amendment) Bill-1991**

The president Ayub Khan formed political Parties Act in 1962. Later on, it was amended in 1975 and 1979. In December 1985 section 8 B was inserted in the Act so that the members could not leave the favour of Muhammad Khan Junejo.<sup>219</sup>The section 8 B was related to disqualification of members in case be defect or withdraw from the party.<sup>220</sup> General Muhammad Zia-ul-Haq had dissolved Muhammad Khan Assembly and Muhammad Khan had filed case in Supreme Court. The remarks of Justice Shafi-ur-Rahman were remarkable

in that context. He said, “An elected representative who defects his professed cause, his electorate, his party, his mandate destroys his own representative character.”<sup>221</sup>The President had issued Ordinance against floor crossing on October 23, 1990.

In spite of all laws was serious need to amend the Act according to need of time, Chaudhry Abdul Ghafoor Ahmed had moved amendment in the Act of political parties section 8 (B). He explained the section 8 (B) in these words; “ If a member of a House have been elected as such as a candidate or a nominee of a political party or having been elected as such otherwise than as a candidate or nominee of political parties and having become a member of a political party after such elections or withdraws himself form political party he shall from the date of such bisection or withdrawal be disqualified from being a member of the House the unexpired period of his term as such member unless he has been reelected at a by-election held after his disqualification.”<sup>222</sup>

He explained that the mentioned section had been challenged in the Shariat Court because it was against the nature of justice. In direction of Shariat Court decision Act is being amended, Chaudhry Aitazaz Ahsan had moved the motion in which he demanded that the report on bill by standing committee be circulated for the purpose of eliciting. He criticized Shariat court and indicated that Court cannot make laws but it can point out laws that were repugnant to Islam. However, Chaudhry Abdul Ghafoor opposed the motion. Baboo Ghulam Hussain (PPP) was also against *Shariat* court and said *Shariat* court can only interpret the laws. Opposition motion was rejected. Liaquat Baloch was in the favour of *Shariat* court and said that *Shariat* court is working under constitution article. Syed Naveed Qamar said that Parliament is collective *Ijma* of the Nation that is why it is supreme than Court.<sup>223</sup>

Syed Zafar Ali Shah alleged that through this amendment government wants to promote floor crossing and decreasing the sovereignty of Parliament. In spite of all opposition, bill was passed.

### **3.23- The National Archives Bill-1993**

Sheikh Rasheed Ahmed had moved the bill as reported by Standing Committee and Syed Naveed Qamar moved the motion in which he demanded that the report should be circulated for the purpose of eliciting public opinion. However, Sheikh Rasheed opposed the motion. Syed Naveed Qamar expressed his views; we need to put our history in proper perspective. We need to search our historical record in the proper perception. For that purpose report must be circulated but the amendment was not accepted. Liaquat Baloch said that we should preserve our ancient heritage culture. Mian Anwar-ul-Haq Ramy said that it is very important issue and proposed penalty that is fixed for theft of record is very less. So it must be increased.

Moreover, Director General should present annual report before parliament and he should also show mechanism of preserving document before advisory board.<sup>224</sup> Syed Naveed Qamar again moved amendment in which he demanded that the photographs should preserved in the archives. But again his demand could not get place in the bill. In spite of rejection, Syed Naveed Qamar moved some more amendments;

1. There shall be a separate Advisory Board consisting of a Chairman, the Director General and more than 15 other members to be appointed and elected in the following manner;
2. 12 members shall be appointed by the Federal Government and,
3. The two members shall be the members of the National Assembly and one of the Senate to be elected by respective Houses.<sup>225</sup>

Sheikh Rasheed opposed it. Liaquat Baloch demanded same composition of Advisory Board but his demand was not also accepted. At last bill was passed without any amendment.

### **3.24- Resolution regarding Constitution of Committee on 8<sup>th</sup> Amendment**

On February 27, 1993, the Prime Minister appointed a committee to discuss with other Political Parties about repeal of 8<sup>th</sup> Amendment. During first term of PPP government IJI

was in favour of 8<sup>th</sup> Amendment. Many leaders of IJI had openly supported amendment in the Parliament as well as outside of Parliament. Later on, when IJI came in power, it had felt that amendment must be removed from Constitution. Nawaz Sharif confrontation with President had changed political scenario and on February 28, 1992 he demanded, “I want the same powers as Britain’s Prime Minister John Major.”<sup>226</sup>

Benazir Bhutto was strong opponent of 8<sup>th</sup> Amendment. She declared on January 14, 1989 that PPP is committed to the repeal of 8<sup>th</sup> Amendment because it is pernicious legislation imposed by dictator Zia.<sup>227</sup> She addressed Bar Council on 15<sup>th</sup> January, 1989 with presence of Chief Justice High Court, Chief Justice Shariat court and president of Lahore Bar Council. She said, “We are committed to restoring the Constitution of 1973, which was Islamic, democratic and representative and hope that all democratic forces in the country will cooperate with us in ridding our constitution of his black spot which casts a dark shadow on the working of a free and democratic system.”<sup>228</sup>

However, that time IJI was not in favour of repeal of 8<sup>th</sup> Amendment. But later on, Benazir Bhutto took benefit on that issue, for one side she was supporting Nawaz Sharif and occupied chairpersonship of National Assembly’s foreign relations committee and on the other had secured release order of her husband. On other side she made secret agreement with President against Nawaz Sharif.<sup>229</sup> Syed Iftikhar Hussain Gillani (PPP) moved resolution regarding committee on 8<sup>th</sup> Amendment. Opposition members were divided on that issue some were in favour and some were against. Ihsan-ul-Haq Piracha (PDA) declared that it is not PDA stance but it is personal stance of the mover. He proposed that motion should be deferred.<sup>230</sup> Liaquat Baloch supported the motion and demanded that the committee should constitute on the constitution issues and that committee should find out the contradiction in the constitution. Mehmood Khan Achakzai (PKMAP) called the motion positive move from Syed Iftikhar side. Ghulam Fareed Kathia (PDA) was not in favour and wanted government should give importance to political parties, not to individual.

Muhammad Ajmal Khan Khattak strongly supported it and called it, 'Voice of whole Nation'. On January 29, 1993 leader of ANP Wali Khan had demanded new Constitution. According to his 8<sup>th</sup> Amendment had distorted the Constitution.<sup>231</sup>

It was very strange that Wali Khan was coalition partner of IJI.<sup>232</sup> Nawaz Sharif and his cabinet were divided on the issue of 8<sup>th</sup> Amendment. Haji Gul Sher Afridi Minister of State resigned on March 31, 1993 in the favour of President. Mir Afzal Khan CM of NWFP dismissed his Finance Minister on April 3, 1993 on support of Nawaz Sharif against President. Hamid Nasir Chatta Federal Minister announced no confidence motion against Nawaz Sharif on April 3, 1993.

On April 4, 1993 six more ministers had resigned on the issue of 8<sup>th</sup> Amendment and president favour.<sup>233</sup> Jam Saif-Ullah Khan Dhereejo (PPP) noted that government should form parliamentary committee consisted upon all political parties' heads. Syed Ghous Ali Shah (IJI) opined that our politics would be above party politics but it should be for country. Mir Hasil Khan Bizenjo (PNP) wanted that the 8<sup>th</sup> Amendment should be removed from Statute Book at once. For that purpose the resolution should be passed unanimously.<sup>234</sup> Muhammad Afzal Khan (PDA) expressed his views that the leader of opposition and leader of the House both had admitted that lot of contradictions were found in the constitution that should be removed from it.

Moreover, the concurrent list also needed to be amended because Federal government had unlimited powers that should be shifted to Provincial level. For all that drastic changes were needed in the constitution.<sup>235</sup> Mir Yar Muhammad Rind (JWP) pointed out very strange point in which he said that Constitution of 1973 was passed without consent and signatures of Baluchistan's representatives. That is why the entire constitution needed to be amended and especially the 8<sup>th</sup> Amendment.<sup>236</sup> At last, the resolution was passed and committee was formed.

### **3.25- The Criminal Law (Amendment) Bill-1993**

The Ordinance VII of 1990 was introduced in October, 1990 by President Ghulam Ishaque Khan during the period of care taker Prime Minister Ghulam Mustafa Jatoi.<sup>237</sup> That ordinance had gotten approval 20 times before 1997, when it became part of constitution. In history, the Shariat Court had directed the government to amend sections 388 to 399 of PPC 1860 that were of relevance to murder and injuries cases.<sup>238</sup> *Qisas* is defined as, “Punishment by causing similar hurt as the same part of the body convict as he has caused to the victim or by causing his death as if he has committed *Qatl-i-Amd* is exercise of the right of victim of a wali.”<sup>239</sup> *Diyat* means, “Compensation specified in section 323 payable to the heirs of the victims.”<sup>240</sup>

The law experts opined that the law needed to be revised. Barrister Safdar highlighted flaws of *Qisas* and *Diyat* law wherein the poor were executed and the person with “deep Pocket” avoids the clutches of the law.<sup>241</sup> Chaudhry Abdul Ghafoor, Minister for Law and Parliamentary Affairs had moved the bill. Syed Zafar Ali Shah (PDA) had moved amendment in the bill in which he demanded that the bill may be published for eliciting public opinion. However, the Speaker explained that this was a different matter, and this motion fell under Rule 107. Liaquat Baloch was favour of bill but pointed out errors and flaws. First all the drawbacks needed to be removed because several deficiencies had been pointed out by the Islamic Ideology Council. It should be referred to the Council.<sup>242</sup> Mian Muhammad Usman (IJI) and Mawlavi Muhammad Khan Sherani JUI (F) also wanted that the bill should be referred to the Council of Islamic Ideology. However, Abdul Ghafoor explained that the bill had been recommended four times by the Ideology Council so further consultation was not needed. Mawlana Ali Akbar JUI (F) alleged that government had changed the original report of the Council of Islamic Ideology. Syed Zafar Ali Shah explained the short history of the bill that the bill had been implemented through Ordinance in 1978, but Council of Islamic Ideology had not given importance as such.<sup>243</sup> Syed Zafar

Ali Shah quoted Article 227: “That all existing laws shall be brought in conformity with the injunctions of Islam, as laid down in the Quran and *Sunnah*.” After that in explanation, “In the application of this clause that personal law of any Muslim sect the expression *Quran* and *Sunnah* shall mean the *Quran* and *Sunnah* as interpreted by the sect.”<sup>244</sup> So, government should not apply it on personal law otherwise it will create confusion and anarchy in the society.

Makhdoom Shahab-Ud-Din (PDA) criticized the bill, voicing his opposition to the amendment in penal code. According to his view, the Penal Code had a very primitive history that started in 1832. It arose as a result of great deliberations by great Jurists that had keen and deep knowledge of land and people.<sup>245</sup> Syed Zafar Ali Shah raised objections over definition of the *Qisas* in the bill, “*Qisas* means punishment by causing similar hurt at the same part of the body of the convict as he has caused to the victims or by causing it dead if he has committed *Qatl-i-Amed* in exercise of the right of the victim or a *wali*.”<sup>246</sup>

It is not accordance with Shariat. That is why Chaudhry Altaf Hussain had written note of dissent when he was member of the committee, observing that “this clearly brings to the focus that if the intention of the constitution had been to apply a sect or doctrine to matters of public law as to distinguish it from personal law. Then there would have been included in the injunction of Islam a particular Juristic doctrine as well.”<sup>247</sup> In the last bill that was passed, there were five reasons that failed Nawaz Sharif Government. *First*, his government could not control the worsening position of law and order in the country. *Second*, Corruption was another big reason that destroyed Nawaz government. Nawaz Sharif could not control corruption because the political leaders of his party as well as well-known civil bureaucrats were involved in corruption. The co-operative scandal in Punjab was very big issue because people had lost 700 million dollars in this financial scandal.<sup>248</sup> *Third*, the allied parties of IJI did not share even one common programme, which is why the alliance began to disintegrate in 1992, and MQM, NPP and JI exited the alliance of IJI.<sup>249</sup>



*Fourth*, PPP was Criticizing the Government over the issue of rigging in elections of 1990; the PPP had commenced a long march against government, whereby the agitation movement also weakened the position of the government.<sup>250</sup> Further, the power play game had commenced between the President and the Prime Minister that accelerated the fall of the IJI government.<sup>251</sup> From the very first day of IJI government, the President had played a dominant role in the administration, appointing Jam Sadiq Ali CM in Sindh to as a counterweight to PPP. Jam Sadiq Ali always met with President and discussed issues with President. The President appointed his son in law Irfanullah Marwat as advisor of CM. The role of PM was not seen in the Sindh administration.<sup>252</sup> Upon the demise of Jam Sadiq, the President had appointed CM Sindh Syed Muzaffar Hussain Shah without consultation of Prime Minister.<sup>253</sup> The differences between the President and the PM appeared at the eve of appointment of COAS. The issue arose again in February, 1993 when COAS, General Asif Nawaz Janjua passed away suddenly. The PM had not been in the favour of the President's decision as to the appointment of COAS. Nawaz had suspected Asif Nawaz of being complicit in the attempts to involve his government with the help of Benazir Bhutto. Now he wanted to make this crucial appointment according to his own choice.<sup>254</sup> But the President was not ready to share power with anyone. To secure power, the PM declared that he would repeal the 8<sup>th</sup> Amendment.

The announcement of repeal on February 28, 1993 had widened the gap between them. Benazir Bhutto supported the President and arrived at a secret agreement with him that if PPP won the next election, the party would choose Ghulam Ishaque as the next candidate. JUI, JUP had turned policy against IJI in 1992 and fifteen members of MQM also had resigned from their seats in the protest of army operation in Karachi that also weakened position of government.<sup>255</sup> The PML was also not united; one group was loyal to Nawaz and other was with Muhammad Khan Junejo that formed separate party with the name of Functional Muslim League. Irfanullah Marwat was deputy chief organizer of that league.<sup>256</sup>

On May 13, 1992, Ijaz-ul-Haq briefed the President about the meeting of Benazir and Nawaz Sharif and withdrew the JI from IJI alliance. On June 17, 1992 Mir Hazar Khan Bijrani Federal Minister recorded protest against killing of his friend before the President. Likewise, several cabinet members were in the favour of the President.<sup>257</sup> Nawaz Sharif discharged Sahabzada Yaqub Khan from the office of foreign Minister, but this decision of the PM also annoyed the president. Moreover, the Army and Nawaz were not in agreement over many issues.

On January 29, 1991, General Mirza Aslam Baig condemned the attack of America on Iraq, whereas Nawaz Sharif expressed support for the American raid on Iraq.<sup>258</sup> To secure the support of PPP, the Army and many members of IJI, the President dismissed Nawaz government and appointed Sardar Mir Balakh Sher Mazari as caretaker PM. He announced the election schedule on July 14, 1993. Although, the Nawaz government was restored by the Supreme Court on May 26, 1993 due to involvement in Floor Crossing activities in Punjab, Nawaz Sharif could not hold onto power. Nawaz Sharif wanted to topple the Provincial government of Punjab and NWFP.<sup>259</sup> Under such circumstances, the opposition parties decided to undertake a long march on July 16, 1993. Seeing this, the Army intervened and compelled the Prime Minister and the President to resign from their offices. The elections were announced to be held in October, 1993.

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- <sup>255</sup>Rasul, *ed. State ,Society and Democratic Change in Pakistan*, 52.
- <sup>256</sup>Mazhar Abbas, “Getting Functional” *Hearled*, (May, 1992), 45.
- <sup>257</sup>*The Nation* (Lahore), June 18, 1992.
- <sup>258</sup> Rasul, *ed. State, Society and Democratic Change in Pakistan*, 60.
- <sup>259</sup> Hamid Khan, *Constitutional and Political History of Pakistan* ,7 66.

## CHAPTER- 4

### THE WORKABILITY AND APPLICABILITY OF OPPOSITION IN THE NATIONAL ASSEMBLY OF PAKISTAN FOR THE DURATION OF THE GOVERNMENT OF BENAZIR BHUTTO (1993-1996)

#### 4.1- General Elections of Pakistan-1993

“Free and fair elections are as the means of political change that would be necessary pre-requisite to the democratic development of any country.”<sup>1</sup>

President Ghulam Ishaque Khan dissolved the National Assembly and Nawaz Sharif’s government on charges of corruption, nepotism, violation of constitution and misuse of power against opposition. The military chief and opposition leader Benazir Bhutto were at the back of president’s decision.<sup>2</sup> But on Sharif’s appeal, Supreme Court restored his government on May 26, 1993. However, his government could not survive and he resigned from the office. Through an agreement, the President also left the office. The Election schedule for National Assembly had been announced on October 6, 1993.

The general elections of 1993 were very interesting and surprising because of various aspects. For the first time, the caretaker government had published a list of bank loan defaulters and tax evaders. Some prominent leaders of PPP and PML (N) were in the list of alleged loan defaulters. However, the masses ignored this development and gave them a huge mandate.<sup>3</sup> Although, PML (N) was near to establishment but in the election of 1993, it won a lot of seats without the help of establishment.<sup>4</sup> In the electoral history of Pakistan, two party systems flourished for the first time because PPP and PML (N) secured 90 % popular vote.<sup>5</sup> However, the voters’ vision was the same as it was in the previous elections. They had voted for local political gain, and not for national interest.<sup>6</sup> The poor turnout showed the lack of interest of voters in the electoral system.

The voters can be divided into seven groups; The Value seeking voters, Party loyalists, Patron seeking, Legislation minded, Skeptic, Biradari bound and Development searchers.<sup>7</sup> In



the election of 1993, only 23% voters were party loyalists.<sup>8</sup> Out of total, 12% were in PPP and 25% were in PML (N).<sup>9</sup> As for the value seeking voters 26% were in PPP and 14% were in PML (N).<sup>10</sup> Another interesting aspect of that election was the poor performance of religious parties. Pakistan Islamic Front (PIF) secured only three seats in the National Assembly but it managed to disturb 14 constituencies where PPP and PML (N) had a close contest.<sup>11</sup> However, PML (N)'s performance was remarkable in Sindh where it had secured 26% votes in rural areas.<sup>12</sup> Although PPP had lost its strong hold in Lahore and central Punjab, it had strengthened its position in Southern Punjab.<sup>13</sup>

The second major difference was that PPP maintains its hold in low income strata as it successfully bagged 46% votes from there while PML (N) managed only 31%.<sup>14</sup> MQM boycotted the election as a result of which 13 of their seats went to PPP and PML (N). The widespread speculation was that MQM boycotted the election due to military pressure.<sup>15</sup> The law barring floor-crossing proved ineffective.<sup>16</sup> The majority of business community including industrialists had supported PML (N) while most landlords were at the side of PPP.<sup>17</sup> The ANP and several other regional parties performed very poor in that election.<sup>18</sup>

In the elections results PPP was at the top with 86 seats in National Assembly while PML (N) was second with 73 seats. The PPP formed government in centre with the alliance of PML (Junejo) while PML (N) took over the role of opposition party in National Assembly.

#### **4.2- Call Attention Notice Regarding the Import and Sale of Book Containing Imaginary Pictures of The Last Holy Prophet Hazrat Muhammad (S.A.W.W.)**

The calling attention notices were used by parliament members to call the attention of Ministers towards a matter of urgent public importance. One such call attention notice was moved by the opposition on Salman Rushdie's anti-Islam book "*Satanic Verses.*" At that time PPP was in government and IJI was in opposition, and the former admitted the moved without any observation. History repeated itself and Muzaffar Ahmed Hashmi of PIF moved the call attention notice on *Encyclopedia of the World Religions* written by GT Betney and

published by Bacon Box England. The book contained some objectionable material about Islam, Muslims and Last Prophet Muhammad (S.A.W.W.).

According to the saying of Last Prophet Muhammad (S.A.W.W.), the people who depict images would be severely punished on the day of judgement.<sup>19</sup> The Western world's animosity toward the Muslim world continued in the third millennium with the promotion of stereotypes of Islam and Last Prophet Muhammad (S.A.W.W.).<sup>20</sup>

In history, western scholars and painters have portrayed Islam and Last Prophet Muhammad (S.A.W.W.) negatively.<sup>21</sup> In Islam all schools of thought were disagree to accept the visual depictions of Last Prophet Muhammad (S.A.W.W.).<sup>22</sup> Islam allows only oral and written descriptions of Last Prophet Muhammad (S.A.W.W.).<sup>23</sup> Some other religions also prohibit visual portrayal of religious figures. During 8<sup>th</sup> and 9<sup>th</sup> century visual representations of sacred figures were prohibited in Christianity.<sup>24</sup> Even Hinduism rejects the image of God.<sup>25</sup>

In response to call attention notice, the Interior Minister explained how the book was imported and sold in Pakistan despite the ban. He clarified that the government had received information that the book was available at Mr. Books store in Islamabad. After investigation the book was not found there but the government sealed the store.<sup>26</sup> Raja Muhammad Afzal also highlighted the importance of the subject and confirmed that it is a critical issue which had harmed the sentiments of all Muslims across the world. Major General (R) Naseerullah Khan Babar once again fortified the government's stance. The book had been published three years ago. The previous government did not take notice of the issue; however the copies of the book were not available at any shop in Islamabad. The federal government issued special instructions to the provincial governments regarding the matter. The opposition collaborated with the government and decided not to discuss the issue any further.

### **4.3- Calling Attention Notice Regarding The Statement Condemning The Existence of Federal Shariat Court and The Law of Namooos-i-Risalat as Being Unnecessary**

The Federal Shariat Court was established by Presidential Order No 1 in 1980 and incorporated in the constitution of Pakistan under Chapter 3-A. The High Courts and all lower courts of the country have been bounded to admit the verdict of Shariat Court under the Articles 203 D and 203 F.<sup>27</sup> Moreover, under the Article 203 J, Shariat Court had the power to give advice to amend any law.<sup>28</sup>

Furthermore, Article 227 is very important as it grants power to Shariat Court to examine the existing laws to ascertain whether they were conforming to the injunctions of Islam or not.<sup>29</sup> Shariat court was established during Zia's period that is why PPP was totally against it. The second main issue was the law of Blasphemy. All schools of thought, like *Hanifi*, *Malki*, *Shafi* and *Hambli* fully agree on the law of Blasphemy.<sup>30</sup> The *Ijma* of *Ummah* decided that if a person commits blasphemy then he would be liable to death penalty.<sup>31</sup>

Even *Quran* vividly declares the punishment and sayings of Last Prophet Muhammad (S.A.W.W.) makes it clearer.<sup>32</sup> Kaab Bin Ashraf was murdered by the order of Last Prophet Muhammad (S.A.W.W.) in that context.<sup>33</sup> Caliph Abu Bakar (R.A) and other companions of Last Prophet Muhammad (S.A.W.W.) firmly believed that the blasphemer of Holy Prophet (PBUH) only deserves death sentence.<sup>34</sup> Imam Ibn-e-Taymiah and all others Muslim scholars have the same belief in this context.<sup>35</sup> During the Mughal period, a similar law was in practice but the British declared it invalid. Moreover, such laws also existed in Europe regarding Jesus Christ.<sup>36</sup>

In Pakistan in May, 1990 Shariat Court delivered a unique verdict on blasphemy law and declared that only death penalty is suitable for this unpardonable offence.<sup>37</sup> In 1991 Madam Nisar Fatima had moved the bill in National Assembly which advocated death penalty for blasphemy convicts. It was adopted after essential procedure and became a part of Pakistan Penal Code as section 295C in 1991.<sup>38</sup> Some secular powers were opposing the law since its

constitution. Hafiz Muhammad Taqi of PML (N) considered it a matter of grave public importance. Although government did not disrespect or reject the Risalat Law but Syed Iqbal Haider (Minister) rejected the objection of opposition and believed that opposition did not recognize the version of the proclamation. The citizens of Pakistan have reverence for last Prophet without apprehension of any law. Sectarian and violence came in society during the era of martial law and Nawaz Sharif epoch.<sup>39</sup>

The law that would be used to victimize any special minority would be against justice. He condemned all laws that would victimize misuse and abuse the authority. Our government is not against the blasphemy law. However, the newspaper should be questioned for printing erroneous interpretation and creating confusion.<sup>40</sup> Mohammad Taqi was not prepared to acknowledge the elucidation of the Minister. He quoted the Minister's speech in which Minister had said that Shariat Court is an unlawful court and their government would close down the Shariat Court very quickly. Secondly, the law of blasphemy is controversial and government would amend it with the passage of time. The daily *Jang* Lahore and *Dawn* had published the same words of the Minister.<sup>41</sup> Nevertheless, Syed Iqbal Haider (PPP) was not prepared to acknowledge the allegation and confirmed that newspaper did not quote speech in true letter and spirit. Mawlana Abdul Rahim (PIF) stated that Shariat Court had been constituted under Islamic constitution but government desires to disband the court and replace it with British jurisprudence. On the other hand, the Minister did not admit the point of analysis of opposition and the calling attention notice was not admitted.

#### **4.4- The Teaching of Nazira Holy Quran Bill-1993**

Pakistan was created in the name of Islam, and on March 12, 1949 a very big step was taken toward Islamization of the country with the passage of the Objectives Resolution.<sup>42</sup> The Objectives Resolution had comprehensive detail regarding Islam as it states, "Wherein the Muslims shall be enable to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam as set out in the *Quran* and

*Sunnah*.”<sup>43</sup> Furthermore, the Constitution of 1956 under Article 25 reiterates the same idea. According to it, the State will provide facilities to the people so as to enable them to understand the meaning of life according to Holy *Quran*.<sup>44</sup> In the Constitution of 1962, the first principle is the compulsory teaching of *Quran*. The same objective had been set out in the Constitution of 1973.<sup>45</sup> Muzaffar Ahmed Hashmi (PIF) moved the bill in which he demanded that the Holy *Quran* must be taught in schools as a compulsory subject.<sup>46</sup>

Syed Iqbal Haider (PPP) had opposed the bill. The mover of the bill had explained the connotation of the bill. According to his proclamation Pakistan is an Islamic State and it had been created in the name of Islam. Moreover, constitutional Article 21 emphasizes that the State will create opportunities for teaching of Arabic language and *Quran*.<sup>47</sup> Sahibzada Fateh-ullah assumed that he had moved one resolution in 1987 that had been approved unanimously. The resolution was about teaching of *Quran* at school level as a compulsory subject. The minority members of that time also supported the resolution. But the existing government is opposing the bill.<sup>48</sup> *Mawlana* Abdul Rahim (PIF) stated that English is compulsory in our country while *Arabic* is not. Hamza supported the bill and believed that the State must take steps to promote the Islamic values individually and collectively. Syed Iqbal Haider acknowledged that the same bill was moved by Liaquat Baloch in the previous government and he had been told that the teaching of *Quran* is going on in schools. That is why Liaquat Baloch had taken back the bill. *Mawlana* Muhammad Azam Tariq (MDM) explained that Islamic Studies being taught in schools is not the teaching of the whole *Quran*. Dr. Sher Afgan Khan Niazi (PND) had elaborated that under the constitution education is not a federal liability; it is purely a provincial subject.<sup>49</sup> Muzaffar Ahmed Hashmi demanded that the bill should be passed on to the committee. *Quran* should be incorporated in the SSC examination. Professor ND Khan (PPP) and Khatho Mal Jeven were also in favour of the committee.<sup>50</sup> Father Rofan Julies demanded that the bill should be referred to the committee. In final the motion was adopted and government accepted the opposition stance.

#### **4.5- Resolution Regarding Entry of National Identity Card Number in the Electoral List**

The foundation of democracy is on free and fair elections system which depends on error free and updated electoral lists.<sup>51</sup> Under the Constitution of Pakistan, Chief Election Commissioner is responsible to arrange the error free lists of voters at the time of elections.<sup>52</sup> Election Commission of Pakistan had prepared computerized voters lists in April, 2006.<sup>53</sup> Under the Article 219 of Constitution of Pakistan the Election Commission of Pakistan shall be responsible for revising electoral rolls of Pakistan annually.<sup>54</sup>

The Electoral Roll Act 1974 was amended from time to time. However, it was last amended through an Ordinance on September 27, 2000.<sup>55</sup> The Section 18 of the Electoral Rolls Act, 1972 grants correction and enrolment in voters list.<sup>56</sup> The Chief Election Commissioner had also directed power to correct the lists of any area under section 19.<sup>57</sup> In 1951, adult franchise was adopted and in the provincial elections of 1954, the voting age was fixed at 21 years.<sup>58</sup> The central government had formed reform commission on October 19, 1955.<sup>59</sup> The reforms commission comprised of one chairman and two members. Mr. Muhammad Ibrahim Khan had been nominated as chairman while Chaudhry Fazal and Mr. Akkas Ali Khan joined as members on November 23, 1955.<sup>60</sup> The commission had suggested several suggestions regarding free and fair elections.

However, after the Constitution of 1956, the Election Commission had taken the responsibility of preparing the voter lists. Later on fresh lists were prepared under the Constitution of 1962. Once again lists were prepared for general elections that were held in 1970.<sup>61</sup> Under the direction of Constitution of 1973 lists were made in 1974 on the basis of joint electorate.<sup>62</sup> In 1978, in order to avoid fictitious entries in voter lists, some new columns had been added. The name of grandfather was added for the first time in the voter lists. Later on, NIC number had been added in the electoral rolls.<sup>63</sup> In 1986, the column relating to NIC was removed without any major argument.<sup>64</sup> In that resolution, the opposition again made the same demand. Mian Muhammad Yasin Khan Wattoo of PML (N) had moved the resolution

in which he demanded that identity card number of voter should be entered in the electoral list. Major General (R) Naseer Ullah Khan Baber objected on procedural grounds. Mian Muhammad Yasin Khan Wattoo mentioned Rule No 144: "If notice of an amendment has not been given on a clear day, before the day on which it is moved, any member may object to the moving of the amendment at eight and thereupon the objection prevail."<sup>65</sup> He further elaborated that the Id. number had imperative character in electoral system. On eve of every election the question arises that whether election was fair or fake. Even irrelevant people have reservation on the accuracy of election. The voter lists were full of error and mistakes. The names of the deceased were present in the voter lists but the names of several commendable people were missing. In rural areas 40 to 45 percent population have no identification cards. The use of computerized list can stop the forgery in the voting system.<sup>66</sup> Sheikh Rasheed Ahmad PML (N) countered the statement and alleged that the Id. card demanded is not permanent and it had been changing with the passage of time because when opposition was in government it had opposed the ID card proposal. He made a very long speech and criticized the current government as well as Z. A. Bhutto era but it was not relevant to the Resolution.<sup>67</sup> He made personal attacks on Bhutto family. Professor N.D (PPP) rejected all arguments of Sheikh Rasheed. Nawabzada Ghazanfar Ali Gill (PPP) had opposed the resolution and stated that from 1988 to 1990 PPP remained in power only for twenty months and if the condition of Id. Card was necessary then why was it removed during Zia's referendum. Again the condition of Id. card which in itself is an extremely complicated task was imposed in 1988 election.<sup>68</sup>

In countryside, the Id. card is not the main issue because people know each other. In addition, in rural areas 90 percent women have no Id. cards. On the basis of Id. cards the government cannot snatch the right of vote.<sup>69</sup> *Mawlana* Fazal-ur-Rehman (IJM) had supported the resolution. He proposed that the voter list as well as Id. card should be computerized. Major General (R) Naseerullah Babar hoped that the government would remove all discrepancies to

make the elections free and fair. Finally, the government collaborated with opposition and accepted the resolution.

#### **4.6- The Islamabad Rent Restriction Bill-1994**

In December, 1988 the same bill had been moved by Sheikh Rasheed Ahmad but government had not considered the side bill. At that time PPP was in government and now once again it was in power. However, the bill had been amended in 2001 and 2014. A new section 2 had been inserted in the name of clause 'g' which made the Mediation Council responsible for the settlement of issues between landlord and tenant through counseling.<sup>70</sup> The landlord shall present the tenancy agreement before the controller within 30 days. The Chapter on Principles of State policy, Article 38 (A) in the Constitution of 1973 provides the rules regarding tenant and landlord. Our constitution guides tenant and landlord to settle issues through adjustment.

The same bill was moved once again. Haji Muhammad Nawaz Khokhar PML (N) had moved the bill to regulate the relationship between the landowner and tenants of certain premises in the Islamabad territory. Major General (R) Nasreerullah Khan Baber (Interior Minister) had opposed the bill. The mover of the bill had explained the purpose of the bill. There were two types of laws in the country: one is Pakistan Urban Rent Restriction Ordinance which had been amended in 1960, 1962, 1963, 1966 and 1970. Islamabad is the only city where rent law had not been implemented. Benazir Bhutto had promised its implementation in Islamabad. That is why the government should not oppose it.<sup>71</sup> Interior Minister explained the position of government that it wants to move a propose bill but in the light of the decision of Shariat Court.

However, the mover of the bill believed that it is a grave issue which needs to be addressed because people were facing hardship due to the absence of law. Syed Iqbal Haider (PPP) also opposed the bill and demanded that it should be postponed till the judgement of Shariat



Court. So, the opposition once again collaborated with the government and the bill had been deferred.

#### **4.7- Resolution Regarding Introduction of Proportional System of Representation**

Proportional system of representation means that political parties compete for support in complex constituencies and seats were divided through actual popularity of a political party.

“Proportional representation system attests to relate the allocation of seats as closely as possible to the distribution of votes.”<sup>72</sup>

Proportional system can be divided into two groups;

1. List system,
2. Single transferable vote system.

Some countries like Australia adopt single transferable system in Senate. However, the list system is very close to PR System. The major aim of the system is that it attracts the whole reflection of the society in Parliament.<sup>73</sup>In the beginning the PR system was widely practiced but later on its importance was questioned.<sup>74</sup>No doubt PR system provides close correlation between vote and political parties. Through that system almost all political parties can get a share in the parliament on the basis of the vote percentage. As a result coalition governments were formed that generate worse arguments against the proportional system.<sup>75</sup>

PR system produces weak and unstable government. “Government is more susceptible to the whims of party officials rather than the wishes of the electorate.”<sup>76</sup>But there were strong arguments in support of the PR system like its usefulness for women and conflict resolution mechanism. However it had more disadvantages than advantages. It affects the level of accountability of public leaders due to various reasons. It leads to the inability of voters to enforce accountability toward members of Assembly.<sup>77</sup>The major drawback of PR system is that it cannot build direct linkage between masses and rulers. In Pakistan PR system is not feasible because it needs high level of literacy as the system is quite complicated.<sup>78</sup>In addition, it would impair the Federal charter of the State.<sup>79</sup>It is reported that in Pakistan

about seventy political parties were registered. Therefore, PR system had no future in Pakistan.<sup>80</sup>In spite of all, Muzaffar Ahmed Hashmi (PIF) stimulated the resolution and demanded that government should take steps to implement the proportional system in the country. Syed Iqbal Haider (PPP) assumed that the proportional system is the part of our manifesto but on list basis.<sup>81</sup>

Muzaffar Ahmed Hussain explained the situation further. The PPP and PML (N) have the same manifesto regarding the proportional system but during the election both parties had withdrawn their manifesto. Landlords and capitalists get votes with the power of money that is why they were permanently in parliament. However, the proportional method can generate opportunities for fresh parties in the country.<sup>82</sup>

The system is not new and it is maintained in Germany and France. It can get rid of provincialism, capitalism as well as feudalism in the country. Mawlana Abdul-ur-Rahim (PIF) was also in the favour of resolution. He explained that the proportional system can abolish the conspiracy theory. Since the days of British *Raj* only one class is ruling in the country. The revolution can come through proportional system. Pirzada Mian Riaz Hussain (PPP) was in favour of the existing system. He believed that through current system neat and clean people can be elected. Muhammad Nawaz Khokhar PML (N) stated that there were several reservations on proportional system. During the Martial Law era proportional system had developed. A strong government cannot establish through it because regional parties will become a part of the Parliament. In the South Asian region only Sri Lanka is practicing it.<sup>83</sup>

Mawlana Fazal-ur-Rehman (IJM) demanded that the government should form a committee and all the parties should be given representation in it. Mawlana Azam Tariq (MDM) was in favour of the resolution and stated that the existing system is full of loopholes and it should be replaced to prevent floor crossing. The existing system cannot construct genuine leadership.<sup>84</sup>

Of all the systems operating in the world, proportional system is the best. The whole world of Islam is far away from democracy. Pakistan, Iran and Malaysia have democracy to some extent. If we want democracy then small political parties should get their share in the Parliament according to their manifesto. Mian Muhammad Yasin Khan Wattoo PML (N) was against the proportional system. He believed that it had numerous drawbacks and it cannot offer sturdy government. During Zia period the decision had been made in favour of proportional system but soon it had been tainted. The committee should be formed on the issue and it can be sorted out through referendum. Chaudhry Ahsan Iqbal of PML (N) supposed that the proportional system cannot resolve our troubles. Mehmood Khan Achakzai (PK.MAP) was in favour of the system. It would end floor crossing and will reduce election expense. It will be extremely constructive for political parties.

Chaudhry Muhammad Jaffar Iqbal PML (N) quoted the Rule 250; “Whenever the debate on any motion in connection with a bill or on any other motion becomes unduly protracted the speaker may after taking the sense of the Assembly, fix a time limit for conclusion of discussion on any stage or all stages of the bill or as the case may be the motion.”<sup>85</sup> Hamza PML (N) demanded that government should form committee on the issue. Chaudhry Ali Akbar Wenes (PPP) had opposed the system and called it harmful for political motion.

#### **4.8- Adjournment Motion Regarding Federal Government’s Interference in the Affairs of the Provincial Government of NWFP**

Confrontational politics remained in practice during the second term of Benazir Bhutto government. Benazir Bhutto and Nawaz Sharif had failed to evolve a working relationship.<sup>86</sup> In NWFP the PML (N) had made alliance with ANP in 1993 elections and had obtained 36 seats out of 80. Consequently, Saber Shah of PML (N) had taken Office of Chief Minister with 48 votes while Aftab Sherpao secured only 29 votes.<sup>87</sup>

It was difficult for PPP to accept PML (N) coalition government in NWFP. The crises began when 8 independent members and two ANP members resigned from Sabir Shah’s government on the issue of reallocation of ministries.<sup>88</sup> The PPP central government used

powers of President and obtained a report from Governor of NWFP in which Governor reported that provincial affairs were not running according to the constitution of Pakistan. In the light of the report, President had used power under Article 234 and directed Governor to assume the functions of the government.<sup>89</sup>

The PPP had moved the no confidence motion against Sabir Shah but Governor had suspended the Assembly on the direction of President.<sup>90</sup> Sabir Shah had filed petition against this act of Governor in Supreme Court on February 26, 1994 which was decided in favour of Sabir Shah and his government was restored on April 20, 1994.<sup>91</sup> But the court directed Sabir Shah to seek fresh vote of confidence.<sup>92</sup> The Governor had fixed the date April 23, 1994 for vote of confidence while PML (N) and ANP boycotted the proceeding of provincial Assembly. Consequently, Aftab Sherpao (PPP) became Chief Minister with votes of 42 members.<sup>93</sup> When the ordinance against floor crossing was presented early in 1994, PPP moved a no confidence motion and used all unfair means during it.<sup>94</sup> In such circumstances Syed Iftikhar Hussain Gillani of PML (N) had moved the motion in which he demanded that the matter is of great public importance therefore it should be debated at once. The Federal government is interfering in the affairs of provincial government by keeping MPAs and Deputy Speaker of NWFP Assembly as hostages in Islamabad. He quoted Article, 148 (3), "It shall be the duty of the Federation to protect every province against external aggression and internal disturbances to ensure that the government of every Province is carried on in accordance with the provision of the constitution."<sup>95</sup>

He requested that Federal government should give free hand in the decisions of provincial matters and federal government cannot interfere during the eve of no confidence motion. Arbab Muhammad Jahangir Khan (PPP) thought that such types of things were not acceptable at any cost. Whether; it is being done by government or opposition. Asfand Yar Wali Khan (ANP) believed that central government had no rights to shift MPAs from one city to another city but PM did it to get the desired result.<sup>96</sup> Mr. Mehmood Khan Achakzai

(PK.MAP) also condemned the floor crossing and demanded that it must be stopped urgently. Mir Zafar Ullah Khan Jamali (Independent) also condemned the floor crossing. In 1973 Baluchistan Assembly had been dissolved and it was the first undemocratic action. MPAs were also respectable citizen; do not make them purchasable items because this will open a new door of corruption in the politics. However, the adjournment motion was ruled out by the Speaker.

#### **4.9- The Wealth Tax (Amendment) Bill-1994**

The bill wealth Tax 1994 had received assent of President on February 14, 1994 and it had published on February 15, 1994.<sup>97</sup>The amendment was made in section 7, Act of 1963. The new clause (AA) had been added in the Act that was related to the assessment of agriculture land and income of that sector. <sup>98</sup>“(AA) Where the assessee is owner of agricultural land, its value shall be determined in the following manner, namely;-

1-The value of agricultural land shall, in terms of rupees per acre, be the same as in equivalent to two hundred times the figure of the produce index of such land as fixed, adopted or prescribed by Federal land commission.

2-The land, for which produce index has not been fixed, adopted or determined by the Federal land commission, the value of agricultural land shall be the value as determined under clause 1 for similar land in the areas which are nearest to such land.”<sup>99</sup>

Although, some other amendments were made in the Act but the main focus was on agricultural land and income. The majority of landlords were in PPP but Makhdoom Shahab-ud-Din (PPP) had moved the bill further to amend the Wealth Tax Act, 1963. Several members had opposed the bill. Mian Muhammad Yasin Khan Wattoo PML (N) quoted Rule 107; “ Bills that will be repugnant to the injunctions of Islam, the Assembly may, be a motion, etc...”<sup>100</sup> and “108(2) at this stage amendments to the Bill may not be moved, but if the member in charge moves that Bill be taken into consideration or referred to a select committee any member may move as an amendment that bill be circulated for the purpose of

eliciting opinion thereon ...”<sup>101</sup> Mehmood Khan Achakzai (PK.MAP) assumed that Pakistan is an agrarian society, people were paying *Zakat* and *usher* as land revenue. In the presence of both, new Taxes were not permissible. It should be referred to Council of Islamic Ideology. Lt-General (Retired) Abdul Majeed Malik of PML (N) had moved amendment in the bill that it should be eliciting for public opinion because tax will distress 75 % of population of the country. So it should be circulated. Mawlana Shaheed Ahmed (MDM) had rejected all taxes except *Zakat* and *usher*. Nawabzada Ghazanfar Ali Gill (PPP) explained that income tax is a different thing but it is the wealth Tax Bill. Makhdoom Muhammad Javed Hashmi of PML (N) alleged that the bill is being moved by the government on behalf of IMF but government must observe the rights of farmers. Khwaja Muhammad Asif and Shahbir Hasan Ansari were not in the favour of bill. They demanded that the government should avoid burdening the farmers. Mian Ejaz Ahmed Shafi of PML (N) described the discrimination in the tax system. In agriculture sector, tax would have assessed by revenue officer while in urban sector tax is assessed by District wealth officer. Dual systems were working in the country.<sup>102</sup>

In spite of stern criticism, government did not make any amendment in the bill on demand of opposition and passed the bill.

#### **4.10-The Banking Tribunals (Validation of Orders) Bill-1993**

The major purpose of the bill was to grant protection of Banking Tribunals’ decision against the verdict of Shariat Court.<sup>103</sup>In the bill, the clause on validation read, “Notwithstanding any order or decision of any court, any order or judgement passed, decision or proceeding taken or recoveries made by the Banking Tribunal under the Banking Tribunals (Amendment) Act,1992 (IV of 1992), or any appointment made or notification issued thereunder, at any time before the commencement of this Act and purporting to be in exercise of the authority conferred on the Banking Tribunals under the said Act shall be deemed to have been validly

and shall be deemed always to have had, affect accordingly.”<sup>104</sup>The above quotation is the crux of the bill that was moved by Syed Iqbal Haider (PPP).

Several opposition members opposed the bill. Mian Muhammad Yasin Khan Wattoo of PML (N) considered the bill unimportant. Secondly, it had been decided that ordinances would not issue. Government should put focus neither on legislation nor on Ordinances. Moreover, the government must abide by the decision of the Shariat Court which declared that the present law is against Islam so it needs amendment.<sup>105</sup> Muhammad Nawaz Khokhar of PML (N) stated that the Supreme Court had made the decision that President had no power to re-promulgate an Ordinance especially in the case of Collector Custom VS New Electronics. Issuance of Ordinances was common practice in Indian Act 1919 and in Act of 1935. But in USA, the President had no power to issue the Ordinance.<sup>106</sup>

Hafiz Muhammad Taqi of PML (N) also criticized the bill and alleged that the government was ignoring legislation intentionally. Moreover, the government is decreasing value of Judiciary through appointment of Judges on contract basis and retired judges were being appointed again.<sup>107</sup> Muhammad Nawaz Khokhar also enhanced the statement of Hafiz Muhammad Taqi regarding Judiciary. Government validates only those decisions of the courts which go in its favour. Khwaja Muhammad Asif of PML (N) criticized and believed that PPP had a worse history regarding Judiciary.

Different governments in the past have attempted to curb the power of judiciary. Like, PPP had amended the constitution to achieve it and the current government had removed six Judges. However, judiciary should be free and independent. Chaudhry Ahsan Iqbal of PML (N) alleged that through the current ordinance government wants to protect the decision of Banking Tribunal with the help of the judiciary. This means that the government is repeating the practice of Martial Law era, when Ordinances were unchallengeable in the court.<sup>108</sup> Makhdoom Javed Hashmi also condemned the government policy. Through these steps the government wants to curb the power of judiciary and wants to use judiciary for its

own objective and purpose. In essence government is changing the base of legislation.<sup>109</sup> Syed Iqbal Haider (PPP) had defended the bill and explained that it was passed on April 16, 1992 but on technical ground it could not be a part of the gazetteer. Now government wants to rectify gap period through the current amendment.<sup>110</sup>

Muzaffar Ahmed Hashmi (PIF) had admitted the supremacy of constitution as well as judiciary while he was against the provisions regarding immunity to president and others. He demanded equal laws for everyone. Moreover the laws repugnant to Islam must be amended at any cost. The government adopted the motion without collaborating with the opposition and motion was adopted.

#### **4.11- The National Fund for Culture Heritage Bill-1994**

The National Fund for Culture Heritage Bill was a highly significant piece of legislation for the conservation and preservation of Pakistani national heritage and history.<sup>111</sup> The main objective of the bill was to establish a fund for raising awareness about preservation of archaeological, historical and cultural heritage of Pakistan.<sup>112</sup>

The fund will be generated through several sources as well as Federal government and provincial governments will issue grants in that context, fund will be spent through Board of Governors.<sup>113</sup> Minister in charge of the culture and sport tourism, Malik Niaz Ahmed Jakhar, had moved the bill as reported by the standing committee and several opposition members had opposed the bill. Syed Iqbal Haider described the rationale of the bill. The bill would protect national heritage and establish new lawful fund. Mawlana Abdul Rahim (PIF) had defended opposition's walkout and alleged that bills were being passed without the consent of opposition while Mian Riaz Hussain Pirzada (PPP) criticized the attitude of opposition and alleged that opposition did not want to run the House smoothly. Haji Muhammad Nawaz Khokhar of PML (N) blamed the government for denying rights of debate of opposition. Under clause 6 of the bill; the Board of Governor would consist of one member of Senate,



two from National Assembly. But the government should give proper share to provinces in the Board.<sup>114</sup>

Chaudhry Ahsan Iqbal of (PML N) quoted the Article 8 (2) of the bill, “The board may from time to time, submit reports to the Federal Government relating to the Fund and its activities.”<sup>115</sup> Government should fix a time for annual presentation of the report in the Parliament. Mawlana Abdul Rahim (PIF) again criticized the government and alleged that it is promoting vulgarity in society in the name of culture. Mawlana Muhammad Azam Tariq (MDM) also criticized the TV and Radio programs. He suggested that one religious scholar must be included in the Board. Hafiz Muhammad Taqi of PML (N) also supported the proposal of Muhammad Azam Tariq. However, the government did not pay heed to the opposition demand and the motion was adopted.

#### **4.12- The Constitution (Fourteenth Amendment) Bill-1994**

Under the 1973 Constitution, ten seats for women were reserved in the National Assembly. Similarly provision was made to reserve seats for women in each provincial Assembly. But that provision was applicable only for ten years i.e. from the commencing date or the holding of the second general election to the Assemblies, whichever occurred later? However, under the 8<sup>th</sup> Amendment this provision was changed till the holding of the third general elections to the Assemblies and number of seats was also increased from ten to twenty. “Until the expiration of a period of ten years from the commencing day or the holding of the third general election to the National Assembly, whichever occurs later, twenty seats in addition to the number of seats referred to in clause (1) shall be reserved for women and allocated to the provision in accordance with the constitution and law.”<sup>116</sup> That provision expired on the eve of general elections of 1988. The 11<sup>th</sup> Amendment was moved in Senate on December 31, 1989.<sup>117</sup>

Muhammad Ali Khan, Dr. Noor Jehan Panezai and Syed Fasih Iqbal moved the amendment which demanded restoration of twenty seats for women in National Assembly.<sup>118</sup> The

standing committee of Senate presented its report on the Bill on August 29, 1990. However, the bill was withdrawn by its movers on August 23, 1992 after the Minister for Law assured that the government plans to introduce the bill in Assembly.<sup>119</sup> Once again Syed Iqbal Haider introduced the bill in which he demanded restoration of reserved seats for women not only in National Assembly but also in Senate. Muzaffar Ahmed Hashmi (PIF) opposed the bill. Mawlana Fazal-ur-Rehman (IJM) also criticized the bill and stated that constitutional issues should be decided in the constitutional review committee but the government is violating rules to move amendment without recommendation of committee. Government should avoid such practices that create conflict among government and opposition. Mawlana Muhammad Azam Tariq (MDM) stated that government wants to bring 20 or 25 women in Parliament which is humiliating because women were in majority in our country. Government is debating a sensitive issue of the country while opposition is on strike. First of all government should disband the boycott of opposition and then discuss the issue.<sup>120</sup>

Mawlana Abdul Rahim (PIF) proposed making a separate Assembly for women. Mawlana Fazal-ur-Rehman was against the reserved seats of women. He stated that if PM can be elected through direct election then there is no need of indirect elections.<sup>121</sup> Syed Iqbal Haider had referred the bill to Standing Committee of the National Assembly.

#### **4.13- Adjournment Motion on Buner Issue**

Malakand Division comprised three separate States, Swat, Dir and Malakand, before its merger into Pakistan in 1969. Every state had its own constitution but after their merger with Pakistan, they became Malakand Division. Consequently, Pakistan Frontier Crimes Regulations (FCR) was implemented in the division that hindered dispensation of justice in the area.<sup>122</sup> The majority population of Malakand Division is uneducated and incognisant of the political system.<sup>123</sup> The policies of government, delaying tactics of bureaucracy and FCR had destroyed the autonomy of local traditions and values.<sup>124</sup>

In 1971 Provincial Administered Tribal Area (PATA) was enforced in Malakand Division. Later, in 1973 and 1975 some new laws were also imposed.<sup>125</sup> Under Article 246 and 247(3) and 04 of the 1973 Constitution, powers were granted to Governor and President to improve governance in Malakand Division.<sup>126</sup> The Articles created a parallel judicial system in the area. Some issues were still under the jurisdiction of *Jirga*.<sup>127</sup> Secondly, the constitutional status of Tribal area also triggered insurgencies and boosted the demand of Islamization in Malakand.<sup>128</sup> Mawlana Sufi Muhammad exploited the gaps in the judicial system in Buner and Swat. He was the leader of Islamization in Malakand Division. He belonged to Maiden, Lower Dir and received his religious education from *Mawlana* Tahir Sheikh of Panj Pir. He remained a leading member of *Jamaat-i-Islami* till 1989.<sup>129</sup>

On June 28, 1989 he established *Tehrik-e-Nifaz-e-Shariat* (TNS) Muhammadi in Malakand Division and left *Jammat-i-Islami*'s membership in the same year.<sup>130</sup> In 1991, he demanded enforcement of *Shariat* in Malakand and started agitation that was called off on assurance of Chief Minister of NWFP Mir Afzal Khan.<sup>131</sup>

The Supreme Court of Pakistan upheld the decision of Peshawar High Court on February, 1994. It declared that some provisions of High Court were a clear violation of Article 25 of the constitution. The decision of Supreme Court had curtailed the powers of *Maliks* and *Khans* in the area. Consequently, they supported Sufi Muhammad to launch movement in the Malakand Division.<sup>132</sup> He started a week long agitation against government on May 11, 1994. Acting Governor Khurshid Ali Khan issued ordinance regarding extension of Islamic laws to the whole Malakand Division.<sup>133</sup> Once again Sufi Muhammad launched an armed campaign against the government *Mawlana* Abdul Rahim (PIF) moved the motion regarding the law and order situation in Buner. According to his statement, the people of Malakand wanted enforcement of Islamic laws as they had sacrificed their lives for it. Therefore, the issue must be debated in the Parliament. Furthermore, Objectives Resolution is an integral part of our Constitution and implementation of Islamic system in the country is necessary. Islamic

Ideology Council in its report had recommended establishment of *Qazi* courts for Malakand Division. People had protested against government on the violation of Council of Islamic Ideology's decision. They never accepted the British law but they established *Jirga* System in the area. They have firm determination and will never retreat from their demand.<sup>134</sup> Naseer-ullah Babar, Afzal Khan, Arbab Jahangir Khan, Asfand Yar Wali Khan and Gohar Ayub Khan were in favour of Malakand movement.<sup>135</sup> Haji Muhammad Nawaz Khokhar had also appreciated the role of protestors and criticized the PPP government regarding the issue and called it an anti-Islam political party. He also quoted the incident that had taken place in the previous PPP government on the issue of Salman Rushdie.<sup>136</sup>

*Mawlana* Qazi Fazlullah (IJM) also paid tribute to the people who had sacrificed their lives during the protest. Pakistan was made in the name of *Shariat* and now it must be implemented in the country. *Mawlana* Muhammad Azam Tariq was also in favour of the motion. He explained that PPP had never received votes in the name of Islam while those who did have maligned Islam for their own interest. For instance they had appointed woman ambassador for USA.<sup>137</sup>

Abdul Mateen Khan (ANP) had explained that *Shariat* movement was not a political movement but a religious one. All religious schools of thoughts were included in it. All political parties were supporting the movement in Malakand Division. In short, all opposition members like Rao Qaiser, Chaudhry Ahsan Iqbal and others supported the motion.<sup>138</sup> Government made collaboration and admitted the motion for debate. *Mawlana* Abdul Raheem demanded that government must enforce Islam through ordinance and should form a committee. All parties should participate in the committee.<sup>139</sup> Qazi Fazlullah suggested that government should patronize *Shariat* so that sectarianism can be abolished from the society. According to Muhammad Afzal Khan, Objectives Resolution is a part of the constitution which means that it is based on Islamic laws. Council of Islamic Ideology also had the power to declare any law null and void that is repugnant to Islam. Moreover,

Shariat court is also working in the country. Islam does not permit anyone to shed the blood of innocent.<sup>140</sup> Chaudhry Ali Akbar Waris (PPP) quoted Quaid-i-Azam's speech where he admitted rights of all communities in Pakistan. *Shariat* does not snatch the rights of the minorities. Finally, government had admitted the implementation of *Shariat* in the Malakand division however; it was against the use of force.

#### **4.14- Adjournment Motion Regarding Deteriorating Standard of Education**

Education is very important as it promotes social justice, democratic values and norms in society.<sup>141</sup> Education is the fundamental right of human beings that was admitted in UNO General Assembly in 1948 in the following words; "Everyone has the right to education. Education shall be free at least in the elementary and fundamental stages. Elementary education shall be compulsory....."<sup>142</sup> In 1947 All Pakistan education conference was held in Karachi in which Quaid-i-Azam emphasised on the importance of education; "You know that the importance of education ... under the foreign rule for over a century sufficient attention has not been paid to the education of our people, and if we are to make any real, speedy and substantial progress, we must earnestly tackle this question...."<sup>143</sup>

On another, occasion Quaid said: "Develop a sound sense of disciplines, character, initiative and a solid academic background. You must devote yourself whole heartedly to your studies for that is your first obligation to yourself, your parents and to the State. You must learn to obey for only then you can learn to command."<sup>144</sup> Pakistan had the lowest position when it comes to world education ranking. It had ranked 18th in the bottom of world's countries series.<sup>145</sup> In 1951, 20 million people were illiterate while in 1998 the strength of illiterate people reached 50 million. The Constitution of 1973 declared that government will eliminate illiteracy within minimum period.<sup>146</sup> However, after 18<sup>th</sup> Constitutional Amendment education sector had been transferred to provincial jurisdiction but Article 25 A provides free and compulsory education to all children between 5 -16 years of age.<sup>147</sup> In Pakistan, the standard of education is deteriorating gradually due to several reasons. In this context

Chaudhry Ahsan Iqbal of PML (N) had explained the reasons of downfall of education. Pakistan is badly dependable on Europe in Physics, Chemistry, Engineering and Medical sciences. He quoted the Chinese proverb, "If you want to plan for the year plant a seed. If you want to plan for a decade, plant a tree. And if you want to plan for century educate your people."<sup>148</sup> Pakistan's expenditure on education as percentage of GDP is 2% while Sri Lanka is spending 5%. Korea, Japan and Singapore were spending 8% to 20 % on education sector. Our primary wing is very poor and running under World Bank aid. In Pakistan 80% educational institutions were devoid of basic facilities and children were getting education without any school building.<sup>149</sup> Moreover, our teaching staff is paid less and majority of them were not qualified for teaching. Pakistan had only 23 universities while India had 150 universities.

Chaudhry Ahsan Iqbal moved a proposal for betterment of education which suggested that the government must double the funds, establish adult literacy centers in the country, universities and colleges should run the adult literacy programme in the country, religious schools should also participate in adult literacy programme; government should focus on higher education and improve the standard of research.

Nawabzada Ghazanfar Ali Gill (PPP.) explained that all problems of Pakistan were due to illiteracy. But all issues have been created by educated class in the country. Mir Zafar Ullah Khan Jamali supported the promotion of mother tongue and demanded that education should be delivered in mother language. Khwaja Muhammad Asif of PML (N) was in favour of technical education. Mehmood Khan Achakzai (P.K MAP) criticized priorities of government and rejected the defence budget. According to him 137 million rupees were being paid as loan interest and 101 billion were being spent on defence which is the main reason behind destruction of the country.<sup>150</sup> Mawlana Qazi Fazlullah criticized the education system and called it aimless. He stated that education is more important than defence. Syed Khurshid Ahmed Shah (Minister for Education) criticized the League government. He

alleged that League government had remained in power for 17 years but it had ignored the education sector. He appreciated Z. A. Bhutto and defended his government. Finally, government made collaboration with opposition and admitted the motion.

#### **4.15- The Civil Servant (Amendment) Bill-1994**

Syed Iqbal Haider (PPP) moved the bill for amendment as reported by the standing committee. Hamza of PML (N) moved the amendment in the bill in which he demanded that the bill must be referred for eliciting public opinion. According to him, bill is important but democracy is very weak because from 1947 to 1958 civil cum military bureaucracy was the real ruler of the country. Ayub Khan during his martial law dismissed many civil servants. Same practice had been repeated in Yahya Khan and Z. A. Bhutto era. They both removed 303 and 1700 civil servants respectively and the human rights also remained suspended till 1977.<sup>151</sup> Bhutto's behavior with judiciary was not remarkable; he had crushed his opponents and placed them in prison. Government exercised dual standards because on one side it gave rights to civil servants and on the other side it deprived the rights of appeal of civil servants. He quoted clause 1 of the bill; "Provided that this Sub-Section shall not apply where the president or any person authorized by him is satisfied for reasons to be recorded in writing that in the interest of the security of Pakistan or any part thereof, it is not expedient to give that person such an opportunity."<sup>152</sup>

The amendment was not simple but it would be very harmful to servants. However, the bill was admitted without any amendment.

#### **4.16- The Senate Elections Amendment Bill-1994**

Syed Iqbal Haider (PPP) moved the bill as reported by the standing committee. Makhdoom Muhammad Javed Hashmi and Ahsan Iqbal wanted circulation of the bill for public because political system had lost its importance among the masses. Floor crossing is damaging the system. He assured that opposition will support government on the issue of floor crossing. Election process is very expensive and middle class cannot contest Senate election. We

should open new doors for middle class in politics.<sup>153</sup> Syed Iqbal Haider said that section 96 deals with the expenditure of National Assembly while no law exists for Senate election. To fulfill the need government had introduced the bill. In the end, Makhdoom Javed Hashmi withdrew his amendment and cooperated with government and the motion was adopted.

#### **4.17- Motion on Co-operative Scandal**

The Co-operative Scandal deprived around two million poor Pakistanis of their life savings and also harmed the credibility of PML (N) government.<sup>154</sup> Because several cabinet members of PML (N) were involved in various financial scandals like, BCCI, Co-operative and Mehran Bank.<sup>155</sup> During Nawaz Sharif government issues had been debated in the National Assembly on the motion of Chaudhry Amir Hussain (JI). But the issue was still not settled. Now once again, Professor ND Khan (PPP) moved the motion regarding the issue. Khwaja Muhammad Asif of PML (N) had defended his party and Nawaz Sharif. The murder of General Asif Nawaz Janjua, Yellow Cab scheme and co-operative scandal had been used against Nawaz Sharif but no one could prove it. Now 141 cases were filed against Nawaz Sharif but there is none on co-operative scandal.<sup>156</sup> He alleged that in spite of Benazir Bhutto's promise, nothing was paid. *The Muslims Newspapers* had highlighted the issue.<sup>157</sup> Furthermore, Benazir Bhutto imposed allegation on Nawaz Sharif and Chaudhry Shujaat but it had proved wrong. Mian Muhammad Yasin Khan Wattoo of PML (N) disclosed that Prime Minister had announced in December, 1993 that government would pay the victims in installments, starting from Rs. 25,000, moving on to Rs. 50,000 and then Rs. 100,000 but it failed to start the process. He proposed that government must establish *Ethasab* Commission under the supervision of a high court judge.<sup>158</sup> Shah Mehmood Qureshi (PPP) stated that Chaudhry Majeed was the managing director of NIFC and he was MPA of PML. Second largest institution was NICC and Chaudhry Tajamal Hussain was the head of institution and he was also MNA of PML (N).



Third, major institution is Pasbhan and Sheikh Mansoor was its operator. Fourth, institution was Service Co-operative and Malik Zulfikar Awan was its head, he was also a PML (N) member. Fifth, institution was Mercantile, Co-operative and its operator was Ihsan-ul-Haq Piracha and he was affiliated with PPP. But the liabilities of these five institutions were eleven billions rupees; only Paracha's company was in crises while the rest were defaulters. All things were on record.<sup>159</sup> He demanded that all defaulters must be punished. Chaudhry Muhammad Barjis Tahir of PML (N) criticized the government. He alleged that government elected Senator Gulzar while he was a defaulter in Co-operative scandal. Moreover Shaukat Mehmood was also involved in the scandal but now he is a minister. Ghulam Dastagir Lak, the Minister of Transport in Punjab was also involved in illegal practices.<sup>160</sup>

Hafiz Muhammad Taqi of PML (N) demanded that government must form a judicial commission to probe the matter. Nawab Muhammad Yousaf (Minister for Food and Agriculture) also criticized PML and defended the government. According to him, there were two big groups Chaudhry group and Ittefaq group. The latter had obtained Rupees 74 crore and 92 lac and had not paid back the loans. It consists of Mian Tariq Shafi, Mian Javed Shafi, Ittefaq Foundation Ltd, Brother Sugar mills, Sohail Zia Butt who is the brother-in-law of Nawaz Sharif.<sup>161</sup> In the end discussion was ended without any solid result.

#### **4.18- Adjournment Motion on Suspension of Punjab Provincial Assembly**

PPP entered into coalition government of PML (J) in Punjab. Main Manzoor Ahmed Watto became Chief Minister of Punjab in spite of 18 seats out of 248 in Assembly.<sup>162</sup> The government ran for approximately two years. Benazir Bhutto and her party decided to get rid of Manzoor Watto. Once again the same play of NWFP was played in Punjab.<sup>163</sup> On the report of Governor, President issued proclamation order under Article 234.<sup>164</sup> The proclamation words were as under, "(i) - Now, therefore, in exercise of power conferred by

Article 234 of the constitution, I hereby: - (a) direct the Governor of the Punjab to assume on my behalf the functions of the government of that province....

(ii)-The Chief Minister and provincial ministers of the province shall forthwith cease to perform function of their respective offices....”<sup>165</sup>

On September 12, 1995 Governor called upon Manzoor Watto to seek the vote of confidence from Assembly but he did not attend the session and in this way he was removed from Chief Ministership of Punjab.<sup>166</sup>The new Chief Minister of Punjab Arif Nakkai was appointed in place of Manzoor Watto on September 13, 1995.<sup>167</sup>As the issue had started, Syed Iftikhar Hussain Gillani of PML (N) had moved the motion against the action of President. President had invoked Article 234 of the Constitution and imposed Governor’s rule in Punjab. Raja Muhammad Afzal Khan supported the motion.<sup>168</sup>

Several members of opposition had supported the motion and government admitted it for debates. Nawaz Sharif criticized the President for unjustified use of power.<sup>169</sup> Through such tactics PPP wants to get undue favour of members of National Assembly; the law and order condition in Karachi is alarming but President did not impose governor rule in Sindh.<sup>170</sup>He further indicated that Asif Ali Zardari and Zulfikar Mirza were purchasing Members of Parliament with money and were offering three crore rupees to each member. Professor N. D. Khan countered the statement of Nawaz Sharif and explained that all steps have been taken in the light of law and court decision.<sup>171</sup>

Dr. Zulfikar Ali Mirza also denied Nawaz Sharif’s allegations. Zafar Ullah Khan Jamali criticized the government. According to him, Manzoor Wattoo remained in government for 23 months as Chief Minister of PDF but how all of a sudden he was denounced for being corrupt and characterless. Syed Iftikhar Hussain Gillani quoted Darvash Arabi case of Lahore High Court 1980; “When in matter of imposition of emergency in a province in lieu of the provisions given in part 10, starting from 232. If advice is given by the Federal Government that is a Prime Minister or Cabinet, the President is not bound to accept that

advice.”<sup>172</sup>The same applied in this case where President was not bound to accept the advice of Prime Minister. Muzzafar Ahmed Hashmi also condemned the action of President. Raja Muhammad Afzal Khan observed that whenever PPP came in power it destroyed the provincial autonomy.<sup>173</sup>

*Mawlana* Abdul Rahim (PIF) suggested that PPP should avoid following in the footsteps of General Muhammad Zia-ul-Haq. He alleged that PPP was treating the journalists, religious scholars very harshly and Islamic principles were being openly violated. Mian Abdul Sattar Lalika of PML (N) condemned the action of President. He believed that Chief Minister Punjab had a right to get vote of confidence under Article 130 (5) while use of Article 234 was not justified.<sup>174</sup> The whole opposition was against the action of President but debate ended without any result.

#### **4.19- The Limitation Amendment Bill-1995**

The bill received presidential assent on October 12, 1995.<sup>175</sup>In the bill section 28 and article 144 have been omitted.<sup>176</sup>The major objective of bill was that it provided extension of limitation period in cases of disability, acknowledgement, part payment, fraud and mistake disability.<sup>177</sup>In Limitation Act of 1908 appeals were not acceptable after the period of limitation.<sup>178</sup>

Therefore the bill provided extension period in the case. Dost Muhammad Faizi of PML (N) expressed that the amendment would be destructive and it would open the Pandora’s Box. He demanded that it should be referred to the standing committee. Hafiz Muhammad Taqi stated that Shariat Court had directed omission of clause 28 and restricted amendment for clause 144. He demanded that new judges should be appointed but limitation on cases should not be removed.<sup>179</sup> Syed Iftikhar Hussain Gillani of PML (N) criticized the 8<sup>th</sup> Amendment and Shariat Court because only two judges of Shariat Court have the power of legislation. Mian Muhammad Yasin Wattoo moved the amendment in which he demanded that the bill must be referred to Council of Islamic Ideology to ascertain whether it is repugnant to

injunctions of Islam. Mian Muhammad Yasin Wattoo thought that four judges including Taqi Usmani wrote decision on the limitation. According to them, all schools of thought like *Hanfi*, *Malki*, *Shafi* and *Hambali* agree on the clause. But only judges have written a dissent note on the decision that is why it should be referred to Council of Islamic Ideology.<sup>180</sup>

Chaudhry Ahsan Iqbal had quoted Article 230 which states, (a) “The functions of Islamic Council shall be to make recommendation to *Majlis-e-Shoora* and the provincial Assemblies as to the ways and means of enabling and encouraging the Muslims of Pakistan to order their lives individually and collectively in all reports in accordance with the principles and concepts of Islam as enunciated in the Holy *Quran* and *Sunnah*: (b) to advice a House, a provincial Assembly, the president or Governor on any question referred to the Council is to whether a proposed law is or is not repugnant to the injunctions of Islam.”<sup>181</sup>In light of Supreme Court’s split judgement, the bill should have been send to Council of Islam Ideology. But the motion of bill was adopted without the consent of opposition.

#### **4.20- Adjournment Motion on Attack At the Pakistan Embassy in Kabul**

Benazir Bhutto had not the sole power to set foreign policy in the context of Afghanistan. In fact military role was dominant to decide policy regarding Afghanistan. After Afghan war, ISI (Inter-Services Intelligence) was supporting *Hezb-e-Islami* against all other groups of warrior and Gul Badeen Hikmat Yar was the favouite leader of ISI. Later, ISI started supporting *Taliban* in Afghanistan. In reality, ISI had established *Taliban* because it supported them on the eve of Herat war by providing them 25,000 warriors and weapons.<sup>182</sup> After the Taliban captured Herat city, a mob attacked Pakistan Embassy in Kabul on September, 1995 where one person died and 26 were injured. Former diplomat Lt-General Kamal Matinuddin stated that the enraged mob supporting Afghan government condemned Pakistan’s support for *Taliban*. Because they believe that *Taliban* cannot capture any area without the help of Pakistan.<sup>183</sup>William Maley (Director of Asia Pacific diplomatic college) said, “Bitter resentment towards Pakistan which had built up among the victims of

Pakistan's strategy."<sup>184</sup>In that context Mian Muhammad Yasin Khan Wattoo of PML (N) moved the motion and requested that the issue must be debated in the House. Majority of opposition strongly supported the motion. Raja Muhammad Afzal Khan expressed that Pakistan TV telecasted the news regarding attack on embassy on September 6, 1995 and termed it as the greatest failure of country's foreign policy at international level. Muhammad Zafarullah Khan of PML (N) also explained the issue. According to him, it was second attack on the Pakistan embassy during 19 months and there were approximately five thousand protestors. Pakistan had tremendously served Afghan people but due to our foreign policy we could not get requisite objectives.<sup>185</sup> Muhammad Yasin Khan Wattoo explained that Pakistan had spent its resources on Afghanistan besides accommodating 4.5 million Afghans in Pakistan. In other words, Pakistan had fought Afghan war as a front line country. Government should inform the House regarding the issue because Afghan government had alleged that Pakistan is helping *Taliban*. Second rumor is that India is penetrating its influence in Afghanistan. Third is Iranian disquiet about Pakistan's policy on Afghanistan.<sup>186</sup> Raja Muhammad Afzal Khan of PML (N) pointed out that Brown Amendment had granted relief to Pakistan to some extent but it had also put pressure on Pakistan to recognize Israel. Even Parliamentary Secretary had admitted in his speech that government is thinking about the issue of Israel.<sup>187</sup> Dr. Muhammad Yaseen Baloch (BNMH) explained that USA had imposed its war on Pakistan and dismissal of civil government was a plan of USA. The current scenario is the extension of that policy. Asfand Yar Wali (ANP) stated that it is the result of Pakistan's interference in Afghanistan. The country had fought the war of America in Afghanistan. Now Pakistan is supporting *Taliban* in Afghanistan. These activities would eventually create disturbance in South Asia.<sup>188</sup> Nawabzada Ghazanfar Ali Gill (PPP) pointed out that Afghanistan government was always against Pakistan by creating alliances with Russia and India but Afghan people supported Pakistan. When Sardar Dawood tried to establish relations with Pakistan and initiated talks on Durand Line, his

government was terminated. However during the war, Afghan military bureaucracy earned a bad reputation. The good policies of Prime Minister of Pakistan have helped Afghans to earn a respectful place among the nations of the world. Prime Minister had achieved a milestone in foreign affairs and Clinton had also acknowledged it.<sup>189</sup> Mawlana Abdul Rahim (PIF) appreciated the role of General Zia in Afghan context. But Nawaz Sharif's role was not satisfactory in Afghan *Jihad* while Benazir Bhutto's role remained entirely negative.<sup>190</sup>

Chaudhry Muhammad Barjees Tahir criticized government's policy and stated that Pakistan had lost its positive image on international level. Moreover, Kashmir issue had lost its importance in UNO General Assembly.<sup>191</sup> Mehmood Khan Achakzai blamed ISI for interference in Afghanistan. He called *Taliban* the brain child of ISI and Naseerullah Babar.<sup>192</sup> Pakistan and Iran must stop interference in Afghanistan. Saudi Arabia is also intervening in Afghanistan and it must stop otherwise Pakistan will face serious circumstances.<sup>193</sup> Muzzafar Ahmed Hashmi pointed out that the same administration had been working since the time of Najeebullah.

The communists were dominating in Afghanistan while on the other side killing continues in Kurram Agency, Malakand Agency, Khyber Agency and in other places in the name of fundamentalism supported by America.<sup>194</sup> Professor ND Khan defended the government and stated that Pakistan was on the terrorist list of America. Present government successfully put pressure on America and removed the bad image of Pakistan. Government is committed to abide Makkah Declaration and it will never interfere in Afghanistan.<sup>195</sup> The Speaker ruled out the motion and opposition's stances were not admitted.

#### **4.21- The Islamabad Consumers Protection Bill-1995**

The bill aimed to provide protection to consumers of Islamabad.<sup>196</sup> Under the section 03 of the bill, council of consumer had been established by government that would try to stop unfair trade practice in the market.<sup>197</sup> The Council will consist of Chairman and eleven members. The chairman will be a social worker and appointed by Federal government.<sup>198</sup>

The Council will formulate policies for consumers' rights. Section 05 of the bill declares penalties regarding the rights of consumers and liabilities of traders. The council had power to grant penalties as well as confiscate material for destruction.<sup>199</sup>In this context, Mian Raza Rabbani (PPP) had moved the bill and Mian Ijaz Ahmed Shafi PML (N) opposed it. Mian Muhammad Yasin Wattoo of PML (N) alleged that through the current bill, government wants to interfere in every area of public life. The authority of council would be used for political objectives.<sup>200</sup> Dost Muhammad Faizi of PML (N) elaborated the composition of consumer which would consist of government servant and nominated by government servant. It would support the monopoly of government servants.<sup>201</sup>

Hafiz Muhammad Taqi explained that government wants to snatch everything from traders. Rai Qasir Ali Khan and Rana Zahid Touseef also criticized the composition of council and nationalization Policy of ZA Bhutto and alleged that it would increase corruption. They also criticized PPP and alleged that PPP wants to destroy traders because in election PPP failed to get reasonable votes from big cities.<sup>202</sup> Capt. Haleem Siddique expressed that this black law will destroy the economy of Pakistan. Mian Raza Rabbani defended government's stance and motion was adopted.

#### **4.22- Railway Amendment Bill-1995**

On November 14, 1995 bill was passed from Parliament and it received assent of President on November 6, 1995.<sup>203</sup>In the bill amendment was made in section 04 Act IX of 1890. Through the amendment, government had the power to appoint one or more suitable persons for general manger. The second amendment was made in section 82 A that states rules regarding accident and investigation as well as compensation for victims.<sup>204</sup> The compensation rates have been fixed in the section 82 A. In case of death, railway will pay Rs. 100,000 and in case of injury Rs. 10,000 will be paid.<sup>205</sup>The bill comprehensively covered the railway requirements. It provided rules regarding properties of railway etc. In this context, Mian Muhammad Yasin Wattoo moved amendment in which he demanded that

the bill should be circulated for the purpose of eliciting public opinion. He elaborated that budget of railway never came under debate and railway remained in loss. First, Railway Act had been passed in 1890 but it was full of errors. Gohar Ayub Khan alleged government had made all contracts of Dining cars without merit and it had been granted to nonprofessionals. Contracts were given to incapable vendors. Consequently, passengers do not like to travel through railway.<sup>206</sup>

Hamza of PML (N) also highlighted the issue of Railway. In the past, Railway was working under West Pakistan and East Pakistan, and budget was discussed in the House. Locomotive Factory is the only assembly plant. All material is imported from Japan. Moreover, the factory is in Risalpur while the whole system of railway is in Southern Side. Hafiz Muhammad Taqi said that Bangladesh was part of our country but now its railway system is better than Pakistan. For knowing public opinion, the bill should be published. Dr. Hamid stated that if Government wants to conduct trade with Central Asia and improve business in the country than it must focus on improving railway lines. Ahsan Iqbal elaborated that in 1960-61 railway track was 5,000 miles and in 1995 according to Survey of Pakistan, the Track is 7,500 km. It is our future but we failed to construct a double track from Peshawar to Karachi besides extending the railway track throughout the country.<sup>207</sup>

Opposition had moved some amendments regarding punishment and fine but could not approve. The bill was passed without collaboration of opposition

#### **4.23- Motion for the Abolition of Punishment of Whipping Act-1996**

The act got assent from president on April 3, 1996 and it was made public on April 15, 1996.<sup>208</sup> International media as well as PPP was against the whipping punishment. Benazir Bhutto had tried to bring reforms in the mode of punishment as well as welfare of prisoners in her first period of government. In December 1988 thousands of prisoners were released from Jail, majority of them were political workers who were convicted by military courts during Zia era.<sup>209</sup>



PPP established a review board that analyzed the cases of martial law period.<sup>210</sup> Moreover, government had established monitoring cell for police in August 1989 and citizen committees were also formed to check the activities of police.<sup>211</sup> PPP government also constituted a committee for introducing prison reforms to improve the condition of prisoners.<sup>212</sup> In April, 1989 government had started a scheme to compensate the victims of martial law era on political ground.<sup>213</sup> In second term once again PPP had started welfare of prisoners and abolishment of whipping punishment was an extension of the past reforms. The Whipping Act was related to Tazir crimes and did not consider *Hadd*. *Hadd* means the punishments fixed in the light of the sayings of Last Prophet Muhammad (S.A.W.W.) and *Quran*.<sup>214</sup> "Except in cases where the punishment of whipping is provided for as hadd, the sentence of whipping provided under any law, rule or regulation for the time being in force shall stand abolished."<sup>215</sup> In this context, Mian Raza Rabbani (PPP) moved the bill as passed by the Senate that was opposed by Hamza of PML (N). He alleged that government is using every act of brutality against political opponents and even members of parliament were being kept alone in prison. He mentioned the book "Long War" by Nelson Mandela in which the author recalls that he never remained alone during the entire imprisonment.<sup>216</sup>

Moreover, government is violating Rule 90 of Legislation. Several people were being killed in Karachi without any judicial orders. The extra judicial killings were also going on in Punjab and America had raised its objections regarding the issue. Mian Muhammad Yasin Khan Wattoo of PML (N) objected to the repealing of whipping act and called for its inclusion as a punishment for heinous crimes. He had recommended that the bill must be referred to the Ideology Council.<sup>217</sup> Mian Ejaz Ahmed Shafi of PML (N) was also against the bill and considered it in accordance with Islam. Muhammad Javed Iqbal Hashmi of PML (N) demanded that the bill should be referred to Ideology Council and after Council's report; it should be debated in the Parliament. Dost Muhammad Faizi of PML (N) condemned the statement of Prime Minister in which she had called Islamic punishments brutal? He stated

that in Pakistan human rights were being violated by police. Muzzafar Ahmed Hashmi of PML (N) declared that the British laws were more brutal than Islamic laws.<sup>218</sup>

Hafiz Muhammad Taqi of PML (N) alleged that government is following a foreign agenda because it wants to promote secular thoughts through such legislations. Nawabzada Ghazanfar Ali Gill (PPP) defended the government and stated that whipping punishment came in the martial law era and Islamic laws were included in the constitution and government would not replace them at any cost.<sup>219</sup> Mian Ejaz Ahmed Shafi criticized the government and mentioned Article 227 which grants assurance of Islamic laws in the Constitution of 1973. He moved the amendment in which he demanded that the bill should be referred to the Council of Islamic Ideology but amendment was not accepted by the government.<sup>220</sup>

The second amendment of Hamza of PML (N) was not admitted in which he requested for circulation of the bill for public opinion. Ejaz Shafi quoted Article 31 of the constitution which reads: “Steps shall be taken to enable the Muslims of Pakistan individually and collectively to order their lives in accordance with the fundamental principles and basic concepts of Islam and to provide facilities whereby they may be enabled to understand the meaning of life according to the Holy *Quran* and *Sunnah*.”<sup>221</sup> He alleged that the bill is against the spirit of Islam and Shariat Court did not declare whipping punishment non-Islamic. However Raza Rabbani countered Ejaz Shafi’s statement and government adopted the motion of bill.

#### **4.24- The Family Court (Amendment) Bill-1995**

First commission was formed in 1956 and it suggested recommendations for Muslim family law. As a result ordinance of 1961 was promulgated. The second law commission was established in 1958 under the headship of SA Rehman. In light of the commission’s report the family Act of 1964 was enacted.<sup>222</sup> But there were numerous flaws in the family law.

Pakistan law commission held meetings on December 5, 1991 and December 26, 1992 to improve the family law.<sup>223</sup>

In which commission suggested these recommendations;

1. “provide inexpensive and expeditious justice;
2. Consolidate the various causes and claims into single unit;
3. Suggest appropriate forum for filing suit as well as appeal against the judgments;
4. Devise a method where under in the eventuality of proceedings being unnecessary prolonged maintenance for wife may be fixed and regular paid.”<sup>224</sup>

The current Act received assent from President on August 1, 1996 and it was published on August 5, 1996.<sup>225</sup> The main amendment was made in the bill regarding fixation of period to settle the issue of family in the court.

For that purpose, section 12A inserted in the bill says: “Certain cases to be disposed of within a specified period. Notwithstanding anything herein before, a suit for dissolution of marriage shall finally be disposed of within a period of four months from its institution; provided that where an appeal lies against the dissolution of marriage such appeal shall be disposed of within four months.”<sup>226</sup> Mian Raza Rabbani (PPP) had moved the bill and highlighted the objective of the bill. Through the bill, government wanted to provide speedy justice to women. The new Article 12A had been inserted in the bill, “Notwithstanding anything contained therein before, a suit for dissolution of marriage shall finally be disposed of within a period of four months from its institution.”<sup>227</sup> Mian Muhammad Yasin Khan Wattoo of PML (N) stated that justice delayed is justice denied.<sup>228</sup> He appreciated the speedy trial introduced by Nawaz Sharif. However, it had been revoked after three years and is now delaying cases.

On one side government is putting women in jail who have affiliation with Muslim League on violation of section 148 and contempt of court and on the other hand government is introducing family law bill.<sup>229</sup> However, he supported the bill. Chaudhry Barjees Tahir of

PML (N) pointed out that the actual issue is not about the making of law but implementing it. Makhdoom Javed Hashmi of PML (N) criticized the bill and called it against the family system and Islam. He believed that it will increase the rate of divorce in society and Islam does not like divorce. Moreover, the issue of divorce should not be decided in hurry but it should be settled through arbitrary council.<sup>230</sup> Hamza of PML (N) mentioned Article 25 which provides equal rights to all citizens without any gender discrimination.<sup>231</sup>

Government is claiming that it is fulfilling the requirements of Article 25 but its behavior with the administrative machinery is very harsh. Secondly government had suspended the power of public service commission. Chaudhry Ahsan Iqbal of PML (N) pointed out that article 35 is being violated by government. The Article 35 says that State shall protect the marriage, the family, the mother and the child. The basic objective of the State is to protect the family life, not dissolution of marriage.<sup>232</sup> He proposed that the period should be extended to minimum six months.

Secondly, the family court judge should first try to save the family and consider divorce as the last option. Hafiz Muhammad Taqi of PML (N) was also against the bill and stated that Last Prophet Muhammad (S.A.W.W.) did not like the act of divorce. Government should increase the period of dissolution of marriage. However, the bill motion was accepted without opposition demand. But opposition was not clear about its demands because on one side opposition was criticizing the bill and on the other it was supporting the bill.

#### **4.25- The Legal Reforms Bill-1996**

The separations of powers were very important in order to protect the rights of citizens from unrestrained powers of rulers and State.<sup>233</sup> Since the creation of Pakistan, the concept of separation of powers had no place and executive had the legislative and the judicial power which created a fragile civil government in the country.<sup>234</sup>

Consequently, the 'law of necessity' had been introduced in the judicial system due to lack of separation of power.<sup>235</sup> Since 1947 rulers of Pakistan have enjoyed unlimited power with

the help of civil cum military bureaucracy because the concept of separation of power does not exist in the country.<sup>236</sup> Separation of powers concept ensures good and fair system in the country.<sup>237</sup> Aristotle developed the concept in 350 BC in his work 'Politics'.<sup>238</sup>

Montesquieu mentioned it in 1748 and linked it with the liberties of masses. He said, "When the legislative and executive powers are united in the same person, or in the same body or Magistrate, can be no liberty; because apprehensions may arise, lest the same Monarch or Senate should enact tyrannical laws, to executive them in a tyrannical manner.... there would be an end of everything, were the same man or the same body, whether of the nobles or of the people to exercise these three powers that of enacting laws, that of executing the public resolutions and of trying the causes of individuals."<sup>239</sup>

In the Sub-continent during the period of Muslim Monarchy (1206-1857) the power rested with one man.<sup>240</sup> The same position remained in British period where Governor General exercised complete power even under the Act of 1935. He had unlimited discretionary powers.<sup>241</sup> But in Pakistan, the first constitution of 1956 admitted the importance of that concept and determined it in its principles. It says, "The State shall separate the judiciary from executive as soon as possible and partible."<sup>242</sup> But in the constitution of 1962 all powers were revolving around the President.<sup>243</sup> Although, the Constitution-1973 was parliamentary type but Z. A. Bhutto made it presidential through several constitutional amendments.<sup>244</sup>

Moreover, General Muhammad Zia-ul-Haq became the viceroy of Pakistan under the 8<sup>th</sup> Amendment.<sup>245</sup> Under these circumstances, Supreme Court issued directives for separation of powers in the second period of PPP government. Ultimately government took steps on March 20, 1996.<sup>246</sup> Syed Iftikhar Hussain Gillani of PML (N) termed it as the most important piece of legislation. He quoted Z. A. Bhutto's April 13, 1972 speech in which he announced the law reforms, "Recurrent demand of people since the days of the British in the Indo Pak Sub-Continent has been the separation of the judiciary from the executive. This was

introduced by administration order at one time in the province of West Pakistan. Soon enough it was found that halfway house has no benefit and the status quo was resumed.”<sup>247</sup> Lord Macaulay’s 1867 Penal code existed and except three presidencies Islamic criminal law was applicable in which Qazi was not under the monarch and he was totally independent.<sup>248</sup> Mian Riaz Pirzada (PPP) pointed out that our constitution is a mixture of martial laws, Islamic laws and ordinances. Nobody had focused on penal code. Now it is the duty of National Assembly to bring reforms in the legal system. He demanded that the bill should be referred to the Committee. Hamza attributed that in our constitution the Judiciary is more powerful than the executive but in reality the latter is more powerful than the former. Supreme Court had granted decision in the favour of separation of powers and District bar councils Larkana and Hyderabad have also passed resolutions to support the Supreme Court’s decision. But, government had not accepted court decision.<sup>249</sup> In Sheikh Rasheed’s Case, government constituted the tribunal with malafide intentions and appointed Luta Ali as judge for special purpose. In this case government wants to grant punishment to Sheikh Rasheed. Moreover, Special Tribunal was under the command of government instead of Supreme Court which was a clear violation of the constitution. Raja Muhammad Afzal of PML (N) criticized the bill as well as Bhutto family. He mentioned that the fourth amendment was related to the judiciary. Furthermore, he pointed out that earlier the application for transfer of case was placed before district and session judge but now it is submitted to deputy commissioner. It is in violation of constitutional Article 186 (A).<sup>250</sup> But Dr. Sher Afgan Khan Niazi defended the government and quoted Article 175: “The judiciary shall be separated progressively from the executive within 14 years from the commencing day.”<sup>251</sup> Muhammad Javed Hashmi of PML (N) also criticized the government as well as his own party. He said: “I was against the 12<sup>th</sup> Amendment when it was being passed through the parliamentary party. When you give importance to individual in legislation it means that you do not believe in the supremacy of the Judiciary or Parliament”.<sup>252</sup> Asfand Yar Wali

(ANP) stated that all political governments of Pakistan followed the guidelines of bureaucracy even the daughter of the east, Benazir Bhutto, had also become a part of the establishment. Mawlana Abdul Rahim mentioned the case of interest that was decided in 1992 in high court which declared it illegal but Muslim League government had filed the appeal against the decision. Hafiz Taqi appreciated the Supreme Court decision on separation of powers that was declared on March 23, 1996. He demanded that power of transfer of case should not be in the hands of deputy commissioner. On one hand government is delegating powers and one on the other hand it is taking them. Granting power to executive to declare punishment of up to three years will be used against political opponents and will harm the judiciary in future.<sup>253</sup> Muhammad Ijaz-ul-Haq of PML (N) criticized the unlimited power of magistrate and called it unconstitutional. Mian Abdul Waheed of PML (N) mentioned Montesquieu's *The Spirit of Laws* in which he states: "In every government there are three sources of power, legislation, executive and judiciary. The liberty of individual requires that neither all three powers nor any two of them should be placed in the hands of one man or anybody of men."<sup>254</sup> The American writer Hamilton had voiced the same when he says: "Accumulation of all powers, legislative, executive and judiciary in the same hands whether of one, a few or many, whether hereditary, self-appointed, or elective may justly be pronounced the very definition of tyranny."<sup>255</sup> Captain Haleem Ahmed Siddiqui also criticized the power of Magistrate and called it British system of government.

Chaudhry Ahsan Iqbal had presented the proposal that government should establish ombudsman office at district level. Mehar Ghulam Fareed Kathia defended the government and quoted Z. A. Bhutto's speech: "The golden principles that justice is not only to be done. But also must be seen to be done. It had now been implemented. There will be separation of power in as much as the prosecutor and the judges will henceforth be completely separate."<sup>256</sup> Mian Ejaz Ahmed Shafi had moved amendments at this stage:

1-All judicial and executive magistrates other than those empowered to impose fines and penalties shall be subordinates to the session judge.

2-New section 528 A shall be inserted which will give power to a district magistrate for transfer of case etc. Mian Raza Rabbani had opposed the amendments and all amendments were not admitted. Finally, the motion was admitted without consideration of opposition stance.

#### **4.26- The Special Courts for Speedy Trials (Repeal) Bill-1996**

The Special Court for Speedy trial was first introduced in 1987 as a temporary measure to stop crime rate in the country.<sup>257</sup>The Special Courts decided numerous cases with speedy trial and awarded death sentences to 50 individuals in the first six months. It remained operative only for a year and later on it was extended through ordinance in 1988. In August, 1990, once again ordinance was issued but it lapsed in November 1990. Later, special courts for speedy trial were established under Suppression of Terrorist Activities Act through an ordinance in 1990.

In July, 1991 under 12<sup>th</sup> Amendment, 11 Specials Courts were established in the country. International organizations were against the speedy court and called them unfair and urged government to suspend the sentences of speedy court at once.<sup>258</sup> PPP government introduced the bill to repeal speedy court. Hamza was against the repeal of special court because he believed that ordinary courts cannot meet the challenge of prevailing condition of law and order in society.<sup>259</sup>

Moreover, Government had decided to repeal the speedy courts while crimes were increasing rapidly. During Nawaz Sharif epoch, crime rate had been reduced due to speedy court.<sup>260</sup> Mian Ejaz Ahmed Shafi of PML (N) stated that cases of rape, kidnapping and other gruesome crimes needed some special forum where one could get speedy and cheap justice. Muhammad Javed Hashmi appreciated the period of Nawaz Sharif government and stated that no law was misused in speedy court in that period.<sup>261</sup>Rao Qasir Ali Khan of PML (N)



was also in the favour of speedy court. He stated that speedy court is very important and it should not be repealed.

However, case registration and investigation department must be separated and this can be achieved only through speedy court which is suitable for speedy decisions.<sup>262</sup> Government must enforce Islamic laws in the country because they can reduce the crime rate as is the case of Saudi Arabia. Mian Raza Rabbani (PPP) supported the bill and motion of bill was accepted with stern antagonism of opposition.

#### **4.27- Adjournment Motion on American Ambassador's Report on Human Rights Violations**

In the context of foreign relations with super powers of the world, Pakistan's relations with USA were very close during the period of 1956 to 1960 when both countries established military relations in the shape of different treaties like CENTO and SEATO.<sup>263</sup> USA had amended its foreign assistance Act 1961 in 1970. Section 116 and section 502 B were inserted in the Act that clearly linked allocation of foreign aid with respect for human rights in aid receiving countries.<sup>264</sup>

Moreover, in 1974 USA amended laws regarding human rights in aid receiving countries that were known as Harkin amendments in which it declared; "NO assistance may be provided under this part to the government of any country which engages in a consistent pattern of gross violation of internationally recognized human rights, including torture or cruel inhuman or degrading treatment or punishment, prolonged detention without charges, causing the disappearance of persons by the abduction and clandestine detention of those persons or other flagrant denial of the rights of life, liberty and the security of person, unless such assistance will directly benefit the needy people in such country."<sup>265</sup> In the same year, Humphrey Granston amendment had been made that was same as Harkin amendment. Zia era was very crucial in respect of human rights violations because he had suspended constitution of Pakistan, 1973 and placed hundreds of political workers in prison.<sup>266</sup> Americans can intervene in the affairs of Pakistan regarding human rights

violations because the latter had been receiving aid. American Ambassador's report was in line with the issue. Gohar Ayub Khan of PML (N) moved the adjourn motion in the House for discussion on the report that was submitted by American Ambassador and published in English newspapers. Minister for Law (Raza Rabbani) had opposed the motion. Chaudhry Ahsan Iqbal of PML (N) alleged that Pakistan's constitution gives assurance of personal liberty, political freedom, protection of women and minority. But government's behaviour as shown during the protest of women in Rawalpindi is in violation of human rights rules.

Amnesty International reported that in Pakistan human rights were being violated severely through extra judicial killings. People were also killed for political revenge. So it is an important issue which must be debated in the House.<sup>267</sup> Muhammad Javed Hashmi of PML (N) stated that America was a key supporter of PPP government in Pakistan but now it differs with the government on issue of human rights. Hamza of PML (N) also alleged that government is violating human rights like India is violating them in Kashmir.

Consequently, Kashmir issue had lost its importance due to the wrong policies of government because Pakistan cannot raise it at international forum in light of the present human rights violations.<sup>268</sup> Mian Ejaz Ahmed Shafi of PML (N) quoted Article 42: "No person shall be subjected to torture for the purpose of extracting evidence."<sup>269</sup> Nobody can be detained without permission of proper authority. People were losing belief in Rule of Law. Hafiz Muhammad Taqi also supported the motion. The charges of violation of rights were being imposed on government by MQM.

MQM workers were being killed on daily basis without judicial orders.<sup>270</sup> Gohar Ayub Khan elaborated that in 1994 sixty-five members of the Parliament were put behind bars. Moreover several workers were imprisoned under 16 MPO and 3 MPO. The large numbers of cases of 1994 were still going on in courts and workers were treated cruelly in police stations. The crime rate is increasing in the country because police have joined robbers.<sup>271</sup>

Mian Raza Rabbani (PPP) defended the government; the motion was not accepted and was ruled out.

#### **4.28- Adjournment Motion on Kick Backs in Miraj Aircraft's Deal**

Corruption in Pakistan had affected every sphere of life and it had spread like cancer.<sup>272</sup> Benazir Bhutto government had been dismissed twice on charges of corruption. President Farooq Ahmed Leghari (PPP) used 58(2) b against his own government. He said, "Whereas corruption, nepotism and violation of rules in the administration of the affairs of the government were at peak."<sup>273</sup> Moreover, he highlighted that Ministers and others members of PPP were involved in corruption and nepotism. The second term of PPP government is known for its corruption.<sup>274</sup> The kickback in aircraft deal was pointed out by Mr. Gohar Ayub Khan of PML (N) who moved the motion and demanded that the issue is of great importance therefore it must be debated in National Assembly. But the motion was opposed by Aftab Shaban Mirani, Minister for Defence. Chaudhry Muhammad Jaffar Iqbal of PML (N) stated that the French Aircraft were old and outdated. But government made a deal with France for only gaining kickbacks. Syed Iftikhar Hussain Gillani of PML (N) admitted that it is a serious case of corruption and \$20 million were involved in the deal.<sup>275</sup> Tariq Badar-ud-din Bandy of PML (N) alleged that government is destroying the credibility of forces and it would be very harmful for the integrity of Pakistan. Asfand Yar Wali (ANP) criticized the civil military bureaucracy and stated that if Prime Minister is answerable to House then civil military bureaucracy should be answerable to the Parliament.<sup>276</sup> General (Retired) Abdul Majeed Malik of PML (N) stated that if government is honest and fair then it must admit the motion. Aftab Shahban Mirani defended the government and explained the situation regarding the issue. He explained that the investigation had started and Director General Defence (Purchase) had been removed from his post. If opposition wants a briefing, then a technical person will brief them in the standing committee.<sup>277</sup> Sheikh Rasheed stated that minister had admitted that something is going wrong. Therefore, the government should

form a committee on the issue. Gohar Ayub said that we should not buy expensive aircrafts because we cannot use it in war. For instance Pakistan had bought Canadian F 86 aircrafts in 1971 but did not use them in 1971 war. In the end, Minister of Interior (Major Gen Naseer-ullah Babar) and Defence minister assured the House that after completion of investigation the report will be presented in the House. On assurance of government speaker did not admit motion of opposition.

#### **4.29- The Women in Distress and Detention Fund Bill-1996**

The bill received Presidential assent on October 10, 1996 after passing from parliament.<sup>278</sup>The main purpose and object of the said legislation was that government had established special fund for women particularly for those women that were in distress and detention.<sup>279</sup>The fund was to be spending under the supervision of board of Governors.<sup>280</sup>In Pakistan, women population is 59% but unfortunately due to gender disparity they do not have a proper place in society as well as in government institutions.<sup>281</sup>

In spite of several legislations women were facing still discrimination in the country.<sup>282</sup>In Pakistan many organizations were working for the betterment of women. The United Front for Women (UFWR) is working since 1955. *Shirkat Gah* (S.G) 1970, Aurat Foundation (AF) 1970, Women Action Forum (WAF) 1981, *Dastak* 1990 and *Kashf* Foundation 1996 were major NGOs in Pakistan.<sup>283</sup>Benazir Bhutto was keenly interested in the welfare of women and she had upgraded women division to Ministry of Women Development in 1989.<sup>284</sup>

The major objective of the ministry was to make laws to meet the needs of women and to grant full share in all spheres of life.<sup>285</sup>Ministry sponsored 448 projects from 1979 to 1989 and distributed Rs. 3 million among women.<sup>286</sup>Mian Raza Rabbani moved the bill regarding women rights and bill motion was admitted at once. Gohar Ayub Khan of PML (N) criticized PPP government and alleged that Prime Minister is only representing PPP, not the whole country. Hamza alleged that current government is not ready to accept the reasonable proposals of opposition. The government had malafide intentions regarding the bill because

government had used *Zakat* and *Usher* fund for political purpose. Moreover, in the current bill government will appoint two or one social workers from each province. It means that government will nominate all PPP workers. Because PPP is in government although 69% votes came against PPP in general election. Moreover social institutions will be destroyed and funds would be misused.<sup>287</sup> Shahid Khaqan Abbasi of PML (N) elaborated that according to Para 4 one female member of National Assembly and one female Senator will be the member of Board. If government will nominate female members on political basis then the institution will become totally political. But the motion of bill was admitted.

#### **4.30- Admitted Adjournment Motion on Signing of CTBT Unilaterally**

“The CTBT was a milestone. It is an essential building block in strengthening the rule of law in nuclear disarmament and nonproliferation. That is why it is distressing that this treaty had yet to enter into force....”<sup>288</sup> The CTBT was very comprehensive and effective treaty that had banned all sort of nuclear tests in 1996.<sup>289</sup> The CTBT headquarter is in Vienna that carved its name on the board of services in the cases of earthquake, Tsunami and information on radioactive material.<sup>290</sup> The USA was pioneer in signing the treaty, France, China, Russia and UK also signed the treaty on September 24, 1996. While India, North Korea and Pakistan did not follow the signatory countries.<sup>291</sup>

The report pointed out, “The CTBT is one of the most widely supported treaties in history, having been signed by 183 States and ratified by 159. Regrettably it had still not entered into force.”<sup>292</sup> In history India and Japan were also in favour of such treaties. In 1954 Jawahar Lal Nehru Prime Minister of India and Japanese Parliament had requested International community to ban Nuclear weapons and tests.<sup>293</sup> Prime Minister of UK Harold Macmillan, President Eisenhower of US and Nikita Khrushchev General Secretary of Soviet Union had the same opinion and they had worked hard for that purpose.<sup>294</sup> UK, USSR and USA have signed partial Test ban treaty on August 5, 1963. It was like CTBT.<sup>295</sup> However, India and Pakistan were against the CTBT and both countries had voted against it in September 1996.

Chaudhry Ahsan Iqbal of PML (N) alleged that backdoor diplomacy is going on and Nation is not aware of the facts. He demanded that Prime Minister must come in the House and clear the situation. Pakistan had great reservation about CTBT regarding security of the country. If world provides us assurance and guarantee then Pakistan is ready to sign CTBT.<sup>296</sup> Mian Abdul Majeed explained that India had set its nuclear programme since 1974 which was a threat to Pakistan. India had poor relations with its neighbours. For instance, India captured Kashmir and Juna Garh illegally. It is putting undue pressure on Sri Lanka, East Pakistan Bhutan and Nepal. In fact Indian policy is akin to a big fish eating small fish.<sup>297</sup> Mir Zafar Ullah Khan Jamili elaborated the position of India that it is a big power in the region and also very advanced in arms race. But it is ironical that the current government is not realizing the situation. Pakistan should not tie itself to India at any cost.<sup>298</sup> Nawabzada Ghazanfar Ali Gill supported the CTBT and stated that external debit on the country is due to huge defense budget and it should be minimized because nation is facing a lot of hardships. Russia had made atomic bomb and hydrogen bomb but it could not provide basic necessities to its masses.<sup>299</sup>

The current period is the period of economic prosperity and no one will support nuclear weapons. Dost Muhammad Faizi of PML (N) said that traitors were present in the National Assembly and they only want to gain personal interest through this agreement. He criticized government as well as CTBT.<sup>300</sup> He demanded that decision should be made on CTBT in a joint session of the Parliament. Shahid Khaqan Abbasi stated that it is an attack on Pakistan's sovereignty and its nuclear programme. Raja Muhammad Afzal Khan also opposed the Treaty and stated that Pakistan cannot fight conventional war with India because India had very large army. In 1992 Benazir Bhutto visited America where she gave an interview to CNN in which she admitted that she would end the nuclear programme because it is very harmful for the development of the country. He alleged that Benazir Bhutto had handed over the lists of Sikh freedom fighters to India.<sup>301</sup> Hafiz Muhammad Taqi criticized

CTBT and called it an American resolution that is against Pakistan's interest. Government should not sign it against because it is against the will of people of Pakistan.<sup>302</sup>

Mian Raza Rabbani explained the situation and admitted that government will not do anything against the sovereignty of the country. Nawaz Sharif stated that government should not attach its policy with India. He was not in the favour of treaty. At that stage opposition staged a walkout and boycotted the Assembly proceeding. The proceeding of the House ended without any solid conclusion.

#### **4.31- Ehtesab (Accountability) Commission Bill-1996**

At the time of creation of Pakistan corruption was a severe menace that had been pointed out by Quaid-i-Azam in his speech on August 11, 1947 in the following words: "One of the biggest curses from which India is suffering, I do not say that other countries are free from it, but I think our condition is much worse in bribery and corruption that really is a poison. We must put it down with an iron hand."<sup>303</sup>

The Constitution of Pakistan-1973 had special provision for curbing corrupt practices of Parliamentarians under Articles 62 and 63.<sup>304</sup> Moreover, Pakistan Penal code 1860 section 161,171 provides procedure and penalties in the cases of corruption of public servants. Several laws were made like Public Representative Office Disqualification Act 1949 (PRODA), Effective Bodies Disqualification Order 1959 (EBDO) and Parliament, Provincial Assemblies Membership Act 1976.<sup>305</sup> In spite of these laws, corruption had not decreased but had increased especially from 1985 onwards. Mian Nawaz Sharif moved the bill in National Assembly to control the menace of corruption. According to him Ehtesab commission Act,1996 would provide independent inquiry, investigation, prosecution and expeditious trial of offences committed by the public representative member of Federal and Provincial government and the public service in Pakistan and it would cover the period from August 6, 1990.

But if government wants to start accountability since 1947 then opposition will support the government.<sup>306</sup>The Jurisdiction of commission would cover President to public servants of grade 18 and above.<sup>307</sup>

Under the Act the guilty persons would not be spared and would be punished with fine and imprisonment of seven years.<sup>308</sup> The commission would consist of one serving or retired judge of Supreme Court and one judge of High Court will be its member. The commission would be appointed by President with consultation of the Prime Minister, leader of opposition in the National Assembly and the chief justice of Supreme Court. Minister for Law (Raza Rabbani) countered the statement of opposition and stated that government is ready for it and it is not ignoring accountability.

The Select committee had been constituted and after the report of committee the bill will come in National Assembly.<sup>309</sup> Ghulam Mustafa Jatoi demanded that government must form a judicial commission to settle the issue on urgent basis. Mehmood Khan Achakzai mentioned instructions of the President regarding Ehtesab Commission. The President had written a letter on September 23 while government did not pay heed to it. He demanded that government must constitute a committee and it should declare the whole House as committee. Moreover, speaker should suspend the Rules 48 and should admit motion of bill.<sup>310</sup> Mian Muhammad Yasin Wattoo pointed out that under Rule 48 speaker had the power to admit the motion. So, speaker should take initiative in this context.<sup>311</sup> He also demanded the formation of committee on the issue. However, the opposition bill was not admitted.

#### **4.32- Dismissal of PPP Government**

Opposition had not accepted PPP government from the very first day; Nawaz Sharif had launched agitation movement against government in September, 1994. The objective of agitation was to force army to interfere in government affairs.<sup>312</sup> On July 21, 1996 nine



political parties formed combined opposition and called a strike that completely closed down industry and business in Sindh.

On July 25, 1996 fourteen Parties including PML (N), MQM and JI formed opposition alliance against PPP government. Nawaz Sharif said, “Opposition has decided to get rid of this government and launched a joint struggle to achieve it. We demand a caretaker government to replace Bhutto and formation of independent election commission.”<sup>313</sup>

Moreover, opposition’s train marches and strikes had created hurdles in the affairs of government. In National Assembly, opposition’s role was problematic toward government. PML (N)’s main agenda was to cripple the government rather than granting it any concession.<sup>314</sup> While on the other side, opposition alleged that government had been harassing it in the name of accountability.<sup>315</sup> Government had filed references against Nawaz Sharif with charges of high treason. There were many others factors that damaged PPP government and one of them was the differences between Prime Minister and President of Pakistan. The differences surfaced when President filed reference in the Supreme Court on the issue of the appointment of Judges on September 21, 1996.<sup>316</sup>

Nawaz Sharif took advantage of the rift and met President on September 26, 1996 in which he requested for the dismissal of PPP government and demanded fresh election in the country.<sup>317</sup> Furthermore, he assured President that opposition will support him against any move of PPP government.<sup>318</sup> Nawaz Sharif called a meeting of opposition parties on October 29, 1996 in which a programme was chalked out to put pressure on government through political agitation.<sup>319</sup> The government clashed with the judiciary as well as mismanagement also damaged the image of government that encouraged President to invoke Article 58(2) b.<sup>320</sup>

The judgement of Supreme Court announced on March 26, 1996 drastically curtailed the powers of the executive in appointment and transfer of judges. On Benazir Bhutto’s refusal to implement the decision of the court, Chief Justice approached the President and requested

for implementation of decision. This created a breach in President and Prime Minister's relations. President pointed out the issue of corruption and demanded formation of committee of Parliament that was rejected by Prime Minister. Consequently, with the support of opposition and army, President dismissed PPP government on November 5, 1996 on grounds of extra judicial killing, corruption, violation of judiciary decisions and involvement in the murder of Murtaza Bhutto,<sup>321</sup> and February 3, 1997 was declared the date for election of National Assembly.<sup>322</sup> Benazir Bhutto had challenged the dismissal order in Supreme Court but the Court upheld it through a majority vote.<sup>323</sup> Thus in this way the second term of PPP government ended and new elections of 1997 were held.

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- <sup>289</sup>Dr. Rebecca Johnson, “Embedding the CTBT in Norms, Law and Practice” Report written for *United Nation Association* U.K Report No. 6, (2008), 6.
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- <sup>291</sup>Ibid.,6.
- <sup>292</sup>Ibid.,7.
- <sup>293</sup>Ibid.,8.
- <sup>294</sup>Ibid.,8.
- <sup>295</sup>Ibid.,9.
- <sup>296</sup>NA (Legislature) Debates, Official Reports, Vol. VII, No. 21, (September 16, 1996), 2965.
- <sup>297</sup>Ibid.,2966.
- <sup>298</sup>Ibid.,2966
- <sup>299</sup>Ibid.,2971.
- <sup>300</sup>Ibid.,2977.
- <sup>301</sup>Ibid.,2981.
- <sup>302</sup>Ibid.,2992.
- <sup>303</sup> Lt-General Munir Hafiz, *Streeing Committee Report on Corruption*, 12.
- <sup>304</sup>Ibid.,12.
- <sup>305</sup>G.W Choudhary, *Constitutional Development in Pakistan*, 352.
- <sup>306</sup>NA (Legislative) Debates, Official Reports, Vol. VIII, No. 6, (October 9, 1996), 382.
- <sup>307</sup>Ibid.,382.
- <sup>308</sup>Ibid.,385.
- <sup>309</sup>Ibid.,391.
- <sup>310</sup>Ibid.,406.
- <sup>311</sup>Ibid.,410.
- <sup>312</sup> Zafar Abbas, “Nawaz Sharif: Where do I go from here?” *The Herald*, (September ,1994), 25-32.
- <sup>313</sup>*The Muslim* (Islambad), July 21, 1996.
- <sup>314</sup> Roger D. Long, *AHistory of Pakistan*, 643.
- <sup>315</sup>Ibid.,664.
- <sup>316</sup>Hamid Khan, *Constitutional and Political History of Pakistan*, 796.
- <sup>317</sup> Ibid.,792.
- <sup>318</sup>*The News* (Islamabad), September 27, 1996.
- <sup>319</sup>Hamid Khan, *Constitutional and Political History of Pakistan*, 793.
- <sup>320</sup>Roger D. Long, *AHistory of Pakistan*, 643.
- <sup>321</sup>Hamid Yousaf, *Pakistan: A study of Political Development* (Lahore: Academy of Adm and Social Sciences, 1998), 247.
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## CHAPTER- 5

### THE PRACTICABLENESS AND DOABILITY OF OPPOSITION IN THE NATIONAL ASSEMBLY OF PAKISTAN FOR THE PERIOD OF PAKISTAN MUSLIM LEAGUE (NAWAZ) GOVERNMENT (1997-1999)

#### 5.1- General Elections of 1997

Democracy cannot flourish without free, fair and transparent election system in the country. Election is an integral part of democracy that provides great opportunities to the masses to take part in the government affairs through selection of their representatives.<sup>1</sup>The history of elections started in the Sub Continent during the second half of the 19<sup>th</sup> century, when the British government introduced an Indian representative in the Council through indirect elections. Later on, the British adopted restricted adult franchise in the subsequent elections.<sup>2</sup> In Pakistan, first two National assemblies were elected through indirect method of elections. However, the first general elections were held on December 7, 1970, through direct method of elections.<sup>3</sup> After the dismissal of Benazir Bhutto government by president Farooq Ahmed Leghari on November 6, 1996 with the help of the opposition party and General Jehangir Karamat, the then Chief of the Army Staff, the elections were held on February 3, 1997. The elections held in 1997 can be considered as critical elections because they not only shifted the popularity of one party over the other but also brought about a complete shift of parade G. M. for the political parties in the history of Pakistan. The 1970 elections were considered to be the turning point in the history of politics as it gave birth to the phenomenon now popularly known as Bhuttoism, whereas, with the 1997 elections this phenomenon ended.<sup>4</sup> Another, main feature of 1997 elections was that in previous elections PPP had attracted large majority of voters of Shia community but in 1997 elections it could not do so.<sup>5</sup> Another interesting point of those elections was the large number of women (Fifty Five) who contested for the National Assembly while 21 women took part in the provincial Assemblies.

PPP and its electoral partner PML (J) had allotted 161 tickets for National Assembly including nine tickets allotted to women. On the other side PML (N) had allotted 177 tickets for National Assembly including six for women. The 13 women independently contested in the elections but they could not secure a single seat in the National Assembly. As a result only six women could become part of the House.<sup>6</sup>The 1997 elections were held under the supervision of care taker Prime Minister Malik Meraj Khalid, who was a former PPP speaker of National Assembly of Pakistan and he remained Chief Minister of Punjab during the period of PPP government.<sup>7</sup>

First time in the History of Pakistan, people of FATA were given the right of vote in those elections through an Ordinance on December 14, 1996.<sup>8</sup>President Farooq Ahmed Leghari announced some restrictions before the elections through Presidential Ordinance. Some important points of this ordinance are following;

1. The defaulter of Bank loan, government taxes etc. will not be able to take part in the elections as a candidate.
2. Every candidate will submit his asset statement before the election commission.
3. The expenses on elections should not exceed one million rupees for election of National Assembly, and six hundred thousand for Provincial Assemblies.
4. A political party will not exceed Rs. 30 million in expenses.
5. All kind of posters, banners, wall chalking and advertising is prohibited.<sup>9</sup>

Later on, the President promulgated a new ordinance in favour of PML (N) on December 19, 1996 because under the previous ordinance, Muhammad Shahbaz Sharif was not eligible for election as his name was in the defaulters' list.<sup>10</sup>The major contestants of 1997 elections were PPP and PML (N) but 47 other political parties also participated. The PML was divided into five factions, while PPP was also divided into many factions. Likewise, MQM was also divided in two groups MQM (*Haqiqi*) and MQM (*Haq Parast*). Pakistan *Tehrik-e-Insaaf* also took part in the elections, although, it was newly formed on April 25,

1996.<sup>11</sup> However, *Jamat-i-Islami* boycotted the elections of the National Assembly. In the election campaign PPP and PML (N) were in the forefront and dominated the other political parties of the country. The Punjab was the main hub of the election campaign. The PPP defended its policies criticising PML (N) on the grounds of poor performance during its government of 1990 to 1993 and cooperation with the establishment. In fact PML (N) stance was the same as PPP.<sup>12</sup> The results of the elections were very surprising PPP performance was very poor in the National Assembly elections as well as provincial's elections. It secured only 18 seats in the National Assembly; 16 seats from Sindh and two seats from Punjab. In the Provincial elections, PPP secured 34 seats from Sindh, one from NWFP and one from Baluchistan. PML (N) performed very well and was able to secure 136 seats in the National Assembly and its progress in provincial elections surpassed all expectations. It secured 211 seats in Punjab and 32 seats in NWFP.

In NWFP, ANP won 29 seats and made alliance with PML (N) demanding the renaming of the province from NWFP to *Pakhtankhawa*.<sup>13</sup> The elections ended with Nawaz Sharif taking over the office of Prime Minister on 17 February, 1997 with the votes of MQM. In Punjab, Sindh and NWFP provinces, PML (N) formed the government with the alliance of regional parties. In Baluchistan National party and *Jamhoori Watan* party made a coalition government but in August 1998 it was replaced by PML (N) led coalition government.<sup>14</sup> The PPP took responsibility of the opposition party with limited seats in the National Assembly. Benazir Bhutto alleged that the elections were not fair but engineered.<sup>15</sup> Qazi Hussain Ahmed also rejected elections' results and claimed that J.I would not accept the government.<sup>16</sup> While, Fakhar-ud-din G. Ibrahim (Federal Minister) had issued a statement before election in which he blamed Leghari for making a deal with Nawaz Sharif to bring him to power.<sup>17</sup> In spite of all speculations PPP performed its role of opposition in the National Assembly.

## **5.2- The Constitution (13<sup>th</sup> Amendment) Bill-1997**

In the past, the Governor General of Pakistan, Ghulam Muhammad set a precedent by using discretionary powers to dissolve the Assembly in 1954. His actions played a major role in creating political disorder in the country.<sup>18</sup> General Ayub Khan's martial law proved to be fatal as it closed the chapter of parliamentary system completely in Pakistan. General Yahya Khan's role was more critical as it created retaliation in East Pakistan to postponing parliament session. A few years later, General Muhammad Zia-ul-Haq walked into his predecessors' footsteps and dismissed the civil government in 1977 and in 1988.<sup>19</sup>

General Muhammad Zia-ul-Haq introduced the 8<sup>th</sup> Amendment that changed the original shape of the constitution of 1973 of Pakistan. In the original constitution the Prime Minister is the actual head of administration as it follows the British parliamentary system.<sup>20</sup> However, the 8th Amendment granted more powers to the President than the Prime Minister in light of this amendment, the President could now dissolve the parliament at any time without consultation with the Prime Minister if he feels that the government is not working under the provisions of the constitution.<sup>21</sup> He could ask the Prime Minister for taking vote of confidence from the National Assembly as well as appoint a chief election commission, Judges of the Supreme Court, Shariat Court, chairman of FPSC and chiefs of the forces including chief of the staff committee. He could also ask for referendum on national issues as well as appoint a Governor of any province after consultation with the Prime Minister.<sup>22</sup> In a nutshell, the President was more powerful than the Prime Minister of Pakistan. In that context 8<sup>th</sup> Amendment was an undemocratic and authoritarian step that was taken by General Muhammad Zia-ul-Haq in 1985. It affected the constitutional as well as parliamentary history of Pakistan until its repellent.<sup>23</sup> Nawaz Sharif was trying for the repellent of the 8<sup>th</sup> Amendment during his first term of government from 1990 to 1993. He had formed a committee of his cabinet members to debate on repellent of said amendment with the opposition.<sup>24</sup> On 28<sup>th</sup> February, 1993 Nawaz Sharif said, "I want the same power as

British Prime Minister John Major.”<sup>25</sup> The PPP was also against the 8<sup>th</sup> Amendment from the very first day. But Benazir Bhutto played a double game; on one side she supported Nawaz Sharif and got to chair the National Assembly’s foreign relations on the issue of the 8<sup>th</sup> Amendment, while on other side she offered support to the President on the same issue.<sup>26</sup>

Benazir, however, was against the 8<sup>th</sup> Amendment and said, “ We are committed for restoring the constitution of 1973, which was Islamic democratic and representative and hope that all democratic forces in that country will co-operate with us in ridding our constitution of the black spot which casts a dark shadow on the working of free and democratic system.”<sup>27</sup> All parties including PPP supported the 13<sup>th</sup> Amendment PPP was tremendously annoyed with the President on many grounds like dismissal of the PPP government and partial behaviour during the election of 1997. PPP was blamed on the President and regarded his support of Nawaz Sharif and his party illegal.<sup>28</sup> But Benazir’s role as opposition leader was positive as to the saving of the parliamentary system from dictatorship.<sup>29</sup> She also warned Nawaz Sharif about the power of the President and advised him to reduce that power. Moreover, she pointed out the danger of Security Council for National Defence.<sup>30</sup>

The need for the 13<sup>th</sup> Amendment arose due to the attitude and behaviour of President Farooq Ahmed Leghari because he had appointed his old friend as Governor of Punjab against the will and wishes of Prime Minister Nawaz Sharif.<sup>31</sup> In such circumstances, Nawaz Sharif had introduce the amendment and repealed the main Articles like 58 (2) b, 101, 112 and 243 of the 8<sup>th</sup> Amendment. As a result any exterior check on the Prime Minister and his cabinet was removed and now the Prime Minister could only be removed through a vote of no confidence.<sup>32</sup>

The 13<sup>th</sup> Amendment took away the sword of Damocles and put the country back on the track of pure parliamentary democracy. On the other side some political thinkers were in favour of the 8<sup>th</sup> amendment and called it a safety valve in the political crises. In fact in July,

1993, Article 58(2) b failed and the issue was settled through military intervention without enforcing martial law in the country. “No constitution can provide effective check and balance when the system itself fails”<sup>33</sup> However, 13<sup>th</sup> Amendment received an assent from the National Assembly as well as the Senate within four hours that created a lot of confusions and rumours. S. M. Zafar, a famous lawyer pointed out, “Amendment undertaken in a hurry, however laudable the objective may be, adversely effects the growth of a constitutional culture.”<sup>34</sup> It was rumoured that the army and the judiciary might have intervened to support the 8<sup>th</sup> Amendment.<sup>35</sup>

In that context, Syed Zafar Ali Shah PML (N) had moved the bill as passed by the Senate that was adopted by the Speaker. He elaborated the objective of the bill. According to him, democracy was under the control of the army for the last 20 years but now it was finally getting its freedom on the eve of the golden jubilee of Pakistan and Prime Minister Nawaz Sharif played a remarkable role in that context.<sup>36</sup> The 13<sup>th</sup> Amendment would ensure that corruption is curbed and also prove to be helpful in the development of Pakistan in the 21<sup>st</sup> century. Benazir Bhutto (PPP) had also supported the bill and called its acceptance a moral victory of democracy. She appreciated the amendment as well as the supporters of the amendment.<sup>37</sup> Ghulam Mustafa Jatoi also supported the amendment and stated that the 8<sup>th</sup> amendment was the shadow of martial law. Mir Hazar Khan Bijrani PPP (S.B) also appreciated the opposition party’s role in supporting the bill regarding the 13<sup>th</sup> Amendment and stated that it is the real spirit of democracy that Quaid-i-Azam had wanted. Asfand Yar Wali (ANP) also supported the amendment as, according to him, the ANP was against the 8<sup>th</sup> Amendment from the very first day.<sup>38</sup> He further demanded a constitutional package from the government. Mir Hasil Khan Bezenjo (BNP) said that it was being done a second time in the history of Pakistan; First time in 1973, when the opposition had supported the government and now again, when the opposition is supporting the amendment unconditionally. It is a historical achievement that would be written in golden words.<sup>39</sup>

Kunwar Khalid Younas MQM (HPG) also supported the bill. Mawlana Muhammad Khan Sherani JUI (F) also demanded the implementation of *Shariat* system in the country. The bill passed with the support of 190 votes and nobody cast a vote against it. Opposition had made collaboration with government in this regard.

### **5.3- The Offence of Zina (Enforcement of Hudood) Amendment Bill-1997**

Islamic Advisory Council was established in the Constitution of 1962 under Article 204.<sup>40</sup> In the Constitution of 1973, the Council was re-designated as ‘The Council of Islamic Ideology under Article 228.<sup>41</sup> Basically, the major and most important function of the Council was to advise the legislature as well as to the President on questions of Islamic laws. Furthermore, it provided guidance, suggested recommendations regarding Islamic injunctions and point out the laws that are repugnant to Islam.<sup>42</sup>

General Muhammad Zia-ul-Haq reconstituted the Islamic Council on September 26, 1977 that was consisted upon 11 well known religious scholars including two members who were experts in law. The council arranged fifteen meetings from September 29, 1977 to December 20, 1978 and prepared a draft that was called “Hudood Ordinance.”<sup>43</sup> During the draft preparation, the council sought help from Dr. Maruf al Dawalibi who was an internationally renowned Islamic Jurist of the world and was an advisor to the King of KSA. The first draft prepared, was in Arabic language; later on it was translated into *Urdu* and English. On 10<sup>th</sup> February, 1979 it was implemented in the country by General Muhammad Zia-ul-Haq.

In Pakistan there were two types of opinion regarding Hudood laws. One opinioned that strongly supports laws and the other who want to repeal them. Sayyid Muhammad Al Hasain wrote, “*Hudood* are ordained by God. Human laws of punishment change time and again. How can they be equal to God’s Hudood? Take the example of Saudi Arabia where crime rate is so low and America which is the greatest centre of sins and crimes.”<sup>44</sup> The opponents of the ordinance alleged that Hudood laws were a tool in the hands of those wishing to victimise women. Majority cases of *Zina* were registered as bad intentions and falsified, that



is why 95% cases of *Zina* were decided in the favour of women in the courts.<sup>45</sup>In spite of all the hue and cry, the Ordinance could not be repealed but amendments were made gradually to it.

On April 2, 1997 the National Assembly amended it and a new section 04 was added to it pertaining to gang rape sentences. Section 4 says; “When *Zina bil jabr* liable to *Tazir* is committed by two or more persons in furtherance of common intention of all, each of such persons shall be punished with death.”<sup>46</sup>Before said amendment the punishment was not severe but it was only five years imprisonment.<sup>47</sup>

In order to control the crime rate in the society, Syed Zafar Ali Shah PML (N) moved the bill in National Assembly. Mawlana Muhammad Khan Sherani JUI (F) pointed out that according to *Shariat* two points are very clear; one thing is *Hadd*, which means the punishment which is fixed by Islam and it cannot be amended at any cost.<sup>48</sup>The punishment that is determined by *Shariat* cannot be converted into *Tazir*. The bill proposed a death sentence as a punishment for rape, whereas, Islam does not enforce a death sentence to an unmarried person in that crime. Therefore, the bill should be referred to the Council of Islamic Ideology. Syed Naveed Qamar (PPP) stated that the core purpose of the bill is to prevent gang rape but we were putting onus of proof on the victim and that is very complicated to establish.<sup>49</sup> Baboo Ghulam Hussain (PPP) alleged that the government is passing controversial laws with the power of majority. He also demanded that it should be referred to a select committee. Nawab Muhammad Akbar Khan Bugti (JWP) quoted sub clause (2) and (4); “When *Zina bil Jabr* liable to *Tazir* is committed by two or more persons in furtherance of common intention, each of such person shall be punished with death.”<sup>50</sup> Now common intention of all seems to be a strange term and to prove such a thing is impossible because often such incidents happen unexpectedly. Sardar Yar Muhammad Rind (JWP) believed that proving that a crime took place, through *Shariat* or scientific testing, is very complicated, especially when the laws in Pakistan were distorted so often. He raised a

question on the hanging of a criminal and asked what the basis of such a punishment would be. He also requested that the bill should be referred to a standing committee.<sup>51</sup> Syed Zafar Ali Shah PML (N) supported the bill and explained that *Hudood* ordinance had been enforced in Pakistan since 1979 and that the current amendment is not against Islam and the *Shariat*. He emphasised that there were two types of punishments; one is Hadd and the other is *Tazir*. Hadd requires separate evidence that is according to the law of evidence and the law of evidence will prove the type of punishment. It will also decide whether it requires a *Hadd* or a *Tazir*.<sup>52</sup> The current government simply wants to eradicate the crime of gang rape from the society. In the end, the bill was motioned to be adopted.

#### **5.4- The Anti-Narcotics Force Bill-1997**

The Anti-Narcotic Force bill was approved by the President on April 12, 1997 and published in the gazette on April 14, 1997.<sup>53</sup> The major functions of the force were the following;

1. To investigate and prosecute all cases related to Narcotic.<sup>54</sup>
2. To trace and freeze the assets of the offender.<sup>55</sup>
3. To provide help and necessary guidance to other law enforcement agencies in eradicating the Narcotics from the society.<sup>56</sup>

The Force had power to search and seize the property of any offender throughout Pakistan.<sup>57</sup> The drug issue is an international issue especially in the third world countries it is a very serious issue. In Pakistan, during 1980 to 1990 drug usage increased to 200 times as compared to the previous data collected in this regard. In 1990 two millions people were drug addicts in Pakistan.<sup>58</sup> Millions of dollars were spent in drug trafficking, which was equal to Pakistan's economy. To control drug trafficking, Nawaz Sharif's government formed Anti-Narcotics Force which was under the control of the ministry of Narcotics.<sup>59</sup> Pakistan is the main corridor used for drug trafficking because of large cultivation of poppy in Afghanistan. According to one report, 40% of the drugs reached the world through the routes within Pakistan.<sup>60</sup> Poppy is mostly cultivated in Afghanistan, in Helmand and Kandahar that

share their borders with Pakistan. Approximately 350 to 400 tons of opium is trafficked per year from Afghanistan to Pakistan<sup>61</sup> because 74% of the poppy is grown in five provinces that have adjacent borders with Pakistan.

Moreover, 57% opium is produced in Helmund that shares its border with the province of Baluchistan. The other provinces of Afghanistan, Nimruz, Nangarhar and Badakhshan, that produce large amounts of drugs, were also on the border line of Pakistan. The Orakzai, Kurram and Khyber agencies were major routes of drug trafficking through Pakistan.<sup>62</sup> The supply of drugs comes from Afghanistan's Tribal areas and then goes to Baluchistan for transportation out of the country via Iran or the Makran coast. Pakistan is a hub for the most suitable transportation of drugs in the world and that is why some times air routes were used by smugglers for the trafficking of drugs to the Gulf States as well as to some other countries of the world.<sup>63</sup>

Pakistan is a signatory of international drug control treaties. To control drug trafficking government takes every suitable measure. For that end, the government established several agencies and departments, Airport Security Force, Pakistan Coast Guards, Customs Services of Pakistan, Maritime Security Agencies, provincial Excise and Taxation department, whereas, FC and Pakistan Rangers were already working as anti-Narcotics Forces.<sup>64</sup> However, the government established a new force and called it the Anti-Narcotics Force (ANF) in 1997.

In that context, Chaudhry Shujaat Hussain PML (N) moved the bill that was opposed by Mawlana Muhammad Khan Sherani JUI (F). According to him there was no need for more forces as there were several forces already working in that capacity. The exchequer of the country should be pay out on wellbeing of the deprived masses of the country.<sup>65</sup>

The section 4 of the bill is linked to the official cases that deal with the termination of servants through the procedure of court martial, which is totally against the nature of justice. Section 5 of the bill regards to the destruction of poppy crops, which is against Islam and the

Shariat, because in Islam growing of poppy crops is not prohibited. Islam grants assurance of protection to masses with regards to their properties and their lives. He demanded that sections 4 and 5 must be deleted from the bill.<sup>66</sup> Section 6 of the bill grants unlimited power to the administration regarding the arrest of people, which is once again, against the *Shariat* and Islam.

However, Chaudhry Shujaat Hussain supported the bill. He pointed out that the Bill had been approved in 1995 but it could not be part of the Gazette due to some technicalities. The major purpose of the bill is to prevent all narcotic activities in the society. The government had allocated a huge amount of funds for the areas where poppy crops were grown. But Mawlana Muhammad Khan Sherani again raised his voice against section 16 of the bill and called it against Islam. Javed Ibrahim Paracha PML (N) also criticized the bill. However, the government ignored its own party members and adopted the bill motion.

### **5.5- The Marriage (Prohibition of Wasteful Expenses) Bill-1997**

The Bill received assent from the President on June 21, 1997 and was published in the Gazette of Pakistan on June 25, 1997.<sup>67</sup> It was a very useful and effective piece of legislation in social sector. It prohibited decoration of houses, buildings etc. at the eve of a wedding ceremony.<sup>68</sup> Moreover, it also enforced ban on explosion of crackers and display of any type of fire work at the occasion of a marriage ceremony.<sup>69</sup>

Section 4 of the bill proved to be very effective in controlling wasteful expenses on marriage events. It placed a ban on meals or other edible items at marriage receptions, except for hot or soft drinks in the hotels, restaurants and marriage halls. The host, however, could serve his guests a single dish at his own house.<sup>70</sup> In case of violation, a punishment fine of a minimum of one hundred thousand and maximum three hundred thousand rupees was levied.<sup>71</sup>

Syed Zafar Ali Shah P.M.L (N) moved the bill and it was adopted at once.<sup>72</sup> Babar Khan Ghauri MQM (HPG) opposed the bill and demanded that it should be discussed in the

committee. He explained that the bill would be very harmful to the people who were in the business of running marriage Halls. Moreover, that bill will have deprived government a lot of tax. Government should give permission of one dish in a marriage reception.<sup>73</sup> While Syed Ali Shah appreciated the bill and called it the law of welfare. That would eliminate the vast gap between the haves and have not's. It will be useful for one and all. In the end, the Speaker put the motion that was then adopted.

### **5.6- The Ehtesab Bill-1997**

The Ehtesab Act was passed by Parliament and received assent from the President on May 31, 1997.<sup>74</sup> According to this act, any person holding or having held any public office and found guilty of malpractice is liable to be disqualified from said office and contesting in the election.<sup>75</sup> Moreover, the power to appoint the Chief Election Commissioner shifted from the President to the Prime Minister.<sup>76</sup> The period from 1988 to 1990 was excluded from the purview of accountability law and it started from the sixth day of November, 1990.<sup>77</sup> The period of exclusion was a clear cut struggle to save the Nawaz Sharif tenure as Chief Minister of Punjab. The corruption issue was not new in Pakistan; it had started in the very early years of Pakistan's emergence on the map of the world. However, it increased in leaps and bounds after 1980. In 1996 Pakistan was at second place in the list of corruption in the world, while Nigeria was at first place.<sup>78</sup> Majority of the politicians were involved in illegal and corrupt practices in Pakistan. For instance, two billions rupees worth of loans were not paid back by politicians during the period of 1980 to 1996. Mian Nawaz Sharif and his family had also made to the defaulter's list with 2.243 million rupees were still unpaid by them. Likewise, Gohar Ayub Khan's Arusa industries were a defaulter of one million rupees. Syed Fakhar Imam's Kaghan Bricks works were a defaulter of 611 million rupees.<sup>79</sup> Nawaz Sharif and Ghulam Hyder Wyne had allotted 1952 plots to their close friends in their tenure as Chief Minister of Punjab. Ghulam Mustafa Jatoi did not remain behind and distributed 300 plots in Islamabad during the period of the caretaker government.<sup>80</sup>

The People's Party also took its share as Benazir Bhutto provided 60000 jobs to the members of her party without any merit. On the other side Nawaz Sharif distributed 55000 jobs in his political reign. Benazir Bhutto spent 337 million rupees on 39 foreign trips during October 1993 to 1996.<sup>81</sup>Nawaz Sharif also visited France in 1992 along with 100 personnel on government expenses. Even President Farooq Ahmed Leghari attended his son's graduation ceremony in America on government expenses and used chartered aircraft for travelling.<sup>82</sup>

In a nutshell there were several other corruption stories in that period. To control and handle corruption, the new Ehtesab Act of 1997 was introduced, but the opposition raised a lot of hue and cry over it because Nawaz Sharif had established the Ehtesab cell in the Prime Minister Secretariat. Senator Saifur Rehman was appointed head of the cell. He was a business partner and a long-time political associate of Nawaz Sharif .His appointment was not received well and the general perception was that he was involved with Benazir Bhutto and her Family in fake cases.<sup>83</sup>

The basic objective of PML (N) in creating Ehtesab cell was to take all power in its own hands so that it can get targets results from Ehtesab commissioner.<sup>84</sup>Later on Ehtesab cell discovered many foreign accounts of Benazir Bhutto and her family.<sup>85</sup>The second main point was that Nawaz Sharif wanted to establish special benches in the higher courts for corruption cases. It was also alleged that the Government had approached the courts in the cases of Benazir and Zardari. Consequently, Lahore High Court sentenced a five year imprisonment to Benazir Bhutto and confiscated all property as well as imposed a ban on all political activities in April, 1999.<sup>86</sup> Later, Benazir ordered the arrest of Nawaz Sharif's father Mian Muhammad Sharif on grounds of illicit commercial transactions in her second tenure.<sup>87</sup>All in all both governments were dismissed with the charge of corruption and many cases were registered against them.<sup>88</sup>However, it was a perception that Ehtesab Act was introduced to target the opposition.<sup>89</sup>In such circumstances Mr. Syed Zafar Ali Shah moved the bill

regarding the Ethasab cell that was opposed by Syed Khurshid Ahmed Shah. Pir Aftab Hussain Shah Jillani (PPP) declared that nobody had an objection to the Ehtesab and insisted that they should constitute a committee on Ehtesab bill and all political parties must be included in the said committee. He demanded that accountability should start from 1985.<sup>90</sup> Waja Ahmed Karim Dad Baloch (PPP) highlighted that five hundred loan defaulters existed but the government should start their own Ethasab first. But the Government wanted to start Ethasab only for the period of PPP government and that would have created a great suspicion on the Ethasab bill. He proposed two points about Ehtesab;

1. Ehtesab should start from 1970 but if there is any ambiguity then it should start from 1977.
2. Second option is that it should start from 1985, and if it does not start from 1985 it will create lot of confusion and will not remain impartial.

Baboo Ghulam Hussain (PPP) criticized the whole system of Ehtesab and alleged that chairman of Ethasab cell is a man of the government and will do everything according to the wills and wishes of the government. Its main aim will be to victimize only PPP.<sup>91</sup> Dr. Fahmida Mirza (PPP) also demanded that the Ehtesab must start from 1985 and she raised a question as to why the government was leaving a loan defaulter. Abdul Sattar Leghari (PPP) alleged that Ehtesab committee consisted upon only PML members. It meant that the Ethasab bill will be against the opponents of Muslim League only. He demanded that the Government should defer the bill and constitute a new committee for the Ehtesab. Syed Khurshid Shah declared that Rule 285 is being violated by the government. He called it anti-politician bill. He also demanded that Ethasab should start from 1985 and that the Government was avoiding carrying out the Ethasab from 1985 because at that time Nawaz Sharif was Chief Minister of Punjab.<sup>92</sup> If the Ethasab did not start from 1985 the nation would not accept it. Moreover, the 500 bank defaulters did not have any link with PPP.

Secondly, the Ethasab cell was in the Prime Minister Secretariat and the chief of the cell was very close to the Prime Minister which was also objectionable.

The Government is pushing the country into one party system that will put impact adversely on the country. Mawlana Moeen-ud-Din Lakhvi PML (N) pointed out that the bill had several non-Islamic and unwanted sections which must be removed from the bill. For that purpose, the session should be adjourned that day. However, Syed Zafar Ali Shah supported the bill and called the opposition's hue and cry useless. He assured that the government will not spare corrupt persons at any cost. Abdul Hamid Jatoi PML (N) criticized the PPP and alleged that in 1970, 104 members of PPP were supporters of Martial law and for that purpose they had signed a document.<sup>93</sup> In the end, the Speaker moved the motion of the bill which was accepted without any consideration to the opposition's demand.

### **5.7- The Constitution (14<sup>th</sup> Amendment) Bill-1997**

Floor crossing was not a new phenomenon in Pakistan; which unfortunately started from the inception of Pakistan. It was due to many reasons and factors. One of them was the late making of the constitution and weak political party system in the country.<sup>94</sup> The general elections of 1985 also promoted the vice of floor crossing because they were held on a non-Party basis, in which every member tried to get their personal interest in the politics.<sup>95</sup> That evil had existed in 1951 when Mawlana Abdul Sattar Khan Niazi had rejected cash offer from Jinnah League in that context. He contested elections from Mianwali as an independent candidate. It means that these issues existed in those times as well.<sup>96</sup>

In 1993, Moeen Qureshi tried to stop this crossing through the ordinance but later on the PPP government did not move the ordinance in the form of a bill in the parliament.<sup>97</sup> In December, 1985 section 8B was added in the Political Parties Act 1962 to stop defection of Party loyalties. The section 8B had the power to declare a member's disqualification in case the member violated party policies.<sup>98</sup> But Section 8B could not control worse conditions and proved ineffective. President Ghulam Ishaq Khan was annoyed by this floor crossing and he



requested the parliament to pass legislation on that issue.<sup>99</sup>In the history of Pakistan many governments were toppled, in Punjab, Ghulam Haider Wyne's government was overthrown by Manzoor Watto in 1993 through floor crossing.<sup>100</sup>The Judiciary was also against the floor crossing and highlighted it in the case of Khwaja Ahmed Tariq Rahim vs Federation of Pakistan.<sup>101</sup>In Sabir Shah's case the Supreme Court gave orders to amend the constitution to eradicate the vice of floor crossing.<sup>102</sup>In such circumstances a bill was introduced in the Assembly that was adopted by 181 votes with no one was against it. The Senate passed it on June 30 with a majority of votes of 70 to 1 only. Mawlana Muhammad Khan Sherani opposed the bill. The opposition made collaboration with the Government and prepared the final draft in the chamber of the Senate. The new article 63A was added to the constitution and its sole aim was to put a stop to the evil of horse trading in the Parliament.<sup>103</sup>

The clause (2) of the new Article 63A provided that if a member of the Parliament or Provincial Assemblies defects, then the head of his political party may give notice to him to show cause notice within seven days so that the prescribed penalty for defection might not be imposed on him. After show of cause notice, the disciplinary committee of the party would decide the matter within seven days. In case of a decision against such a member, he can appeal to the head of the party whose decision would be final and the decision shall be conveyed to the Presiding Officer of the House.<sup>104</sup>

The Presiding Officer shall within two days send the decision to the chief election commissioner who shall cancel his membership and declare that seat vacant.<sup>105</sup>Another important article was the clause (6) which stated that the action of the party head would not be challenged before any court.<sup>106</sup>A member of the House shall be deemed to defect the Party Constitution if he votes contrary to the direction of the parliamentary party or refrains from voting in the House in relation to any bill against the party policy.<sup>107</sup>

Muhammad Ishaque Dar PML (N) moved the bill as passed by the Senate that was opposed by Mawlana Muhammad Khan Sherani JUI (F). He opposed the bill on two grounds;

1. It will create dictatorship in the political parties.
2. It will curb the freedom of thought.<sup>108</sup>

Syed Khurshid Ahmed Shah (PPP) supported the bill and called it to be in accordance to the policies of PPP. The floor crossing was destroying the dignity of the Parliament and PPP wanted this amendment since 1988, 1990 and 1993 but unfortunately, it did not have majority in the House. He appreciated the government on that issue.<sup>109</sup> Kunwar Khalid Younas MQM (HPG) also supported the bill and called it a great achievement of the government. The amendment would provide stronghold to democracy and strengthen political parties in the country.<sup>110</sup>

Mir Hasil Khan Bezenjo (BNP) also appreciated the bill and stated that it would bring betterment in political system and would close the doors of corruption in politics. Asfand Yar Wali (ANP) called it suitable for the political system.<sup>111</sup> Syed Naveed Qamar (PPP) added that the bill would put a lot of responsibilities on the shoulders of party leaders. As a whole it was a very clear bill that would prove to be helpful in eradicating floor crossing. Mian Nawaz Sharif called it a milestone in the political history of Pakistan. However, it was criticised by different segments of society. One point of view was that it was contrary to the fundamental rights of dissent.<sup>112</sup>

Bar Council of Supreme Court said that, “The amendment would convert party bosses into virtual dictators and turn legislature into dumb shadows ready to approve whatever was placed before them.”<sup>113</sup>

*Jaamat-i-Islami* (JI) was also against the bill and Qazi Hussain Ahmed said, “The 14<sup>th</sup> amendment amends nothing more than concentrating all decision making powers in the hands of a person or a clique, which through some accident of history or folly of the party members has climbed to the seat of leadership. Through such action this leadership has only proved that it considers the whole lot of its members as simple bunch of mindless individuals devoid of any conscience to listen to ....”<sup>114</sup>

In a nutshell, the opposition made collaboration with the government for that bill.

### **5.8- Prevention of Terrorism, Sectarian Violence and Speedy Trial of Heinous Offences Act (The Anti-terrorism Bill-1997)**

The Act had received assent by the President on August 16, 1997.<sup>115</sup>The Act had declared death sentences to terrorists. It had granted unlimited powers to the enforcement agencies and they could enter a house for the cause of search or arrest without any warrant. They could even use force against suspected perpetrations of violence. Under the Act, special courts were established that were required to dispose of cases within seven days and appeals could be lodged only in special constituted appellate Tribunal which was again required to pass judgement within a week. From the beginning, this Act was criticised by the opposition and the lawyers. It was challenged in Lahore High Court but the Court upheld the Act. Then it was challenged in Supreme Court and the Supreme Court declared 12 of its provisions invalid in May 13, 1998 and issued an order to make suitable amendments in the Act.<sup>116</sup>The Government made the amendments in accordance to the orders by the Supreme Court on April 28, 1998.<sup>117</sup>

In Pakistan 97% population is Muslims which consists of 77% *Sunni* school of thought and 20% were Shias by Sect. The other communities were only 3% in Pakistan.<sup>118</sup>The founder and leader of Pakistan, Quaid-i-Azam had set a policy of tolerance for the people of Pakistan. He said, “You will find that in the course of time, Hindus will cease to be Hindus and Muslims will cease to be Muslims, not in the religious sense, because that is the personal faith of each individual but in the political sense as citizens of the State.”<sup>119</sup>

The *Sunni* and *Shias* were two main sects of Muslims in Pakistan.<sup>120</sup>In spite of various differences among them, the sectarian conflicts in the country were unknown, except some minor type of riots at the eve of *Muharram* ceremonies. However, the State policy was neutral but General Muhammad Zia-ul-Haq moved the society towards extremism to enforce *Sunni* jurisprudence in the country. *Shias* resisted Zia’s policy, and that threw the country into the bloody war of sectarianism.<sup>121</sup>Mufti Jaffar established *Tehrik-e- Nafaiz-e-Fiqha*

*Jafria* (TNFJ) in Bhakkar in 1979. After the death of Mufti Jaffar, Allama Arif Hussaini became head of TNFJ in 1984. In a counter move to the head of the Shia organization, Haq Nawaz Jhangvi established the *Anjuman-e-Sipah Sahaba* in 1985. Later on, the *Sipahs* and *Lashker* organization was established which a militancy wing of *Sipah Sahaba* and TNFJ. The assassination of *Allama Arif* in August, 1988 proved to be a turning point in the history of sectarianism.

During 1988 to 1997 469 persons were killed and 2258 wounded in sectarian conflicts in Punjab alone.<sup>122</sup>In 1995, the government established *Milli YakJehti* Council but it proved ineffective in controlling violence in the society.<sup>123</sup> In such circumstances PML (N) introduced Anti-Terrorism Act in the Assembly. Chaudhry Shujaat Hussain PML (N) moved the bill but it was opposed by Syed Naveed Qamar (PPP).

Syed Naveed Qamar alleged that in the preceding government of Nawaz Sharif 12<sup>th</sup> Amendment was passed within 29 minutes and it was a record in the parliamentary history. Now PML (N) wanted to give extra ordinary powers to the police again.<sup>124</sup> He suggested that mere laws cannot eradicate sectarianism from the society. Political consensus is very necessary for the abolishment of sectarianism. He criticized Special Courts that were destroying the judiciary in the country. Pir Aftab Hussain Shah Jilani assumed that constitution had provision in which Judiciary would be separated to executive but again practiced is being done to strengthen the executive.

The special court was introduced in 1975 and it remained active till 1990. However, the requisite aims could not be attained through Special Courts and infinite powers were being awarded to the investigation officers through that bill. The investigation officers could enter a house and search without any search warrant orders. Besides this, they had the power to arrest anybody without any court order. The police system in Pakistan is already not trustworthy and such nature of authority in its power would make it even more obnoxious.<sup>125</sup>

Abdul Sattar Leghari (PPP) criticized clause 10 of the bill related to police powers. He also

criticized the 12<sup>th</sup> clause that pertained to the appointment of judges and composition of special courts.<sup>126</sup> Syed Khurshid Ahmed Shah (PPP) criticized the government and alleged that the government was not giving proper right of debate to the opposition and it was not serious apropos legislation. Majority of the bills were coming in the Assembly without consent of the standing committee and it was also the first time in the history of Pakistan. Moreover, it is a breach of the original rights of the masses.<sup>127</sup> Mian Muhammad Yasin Khan Wattoo PML (N) supported the bill and repeated the famous quote that justice delayed is justice denied. Mawlana Muhammad Khan Sherani JUI (F) criticized clause 5 that was related to the investigation officer. Under clause 5 the investigation officer could open fire on the accused. Mir Hazar Khan Bijrani PPP (SB) was also against the clause 5 of the bill and demanded that government should repeal the bill. Syed Naveed Qamar stated that the bill is against the fundamental rights of the people and that the Government was imposing civil martial law in the country. The opposition was against the bill but bill motion was adopted by the government nonetheless.

### **5.9- Resolution Regarding Steps to Stop Sectarian Violence**

Syed Naveed Qamar (PPP) moved the resolution in the National Assembly that was opposed by Raja Muhammad Zafar-ul-Haq. Shamasur Rehman Khattak (ANP) stated that the elements that were spreading sectarian violence in the society need to be identified. In Lucknow, the *Shia* and *Sunni* issue was on the top of the list but the Indian government placed bans on both sects. From that time on, the condition of law and order had been very much under control. In Pakistan, the Government should also ban the groups and parties that were involved in sectarian violence. Same practice had been adopted by the authorities in America.<sup>128</sup>

Muhammad Asif Khan advocate alleged that the agencies were involved in violence and sectarianism and wanted to destabilize the Government and Government must handle this issue with an iron fist. Sanaullah Baloch (BNP) declared that it was not a new issue and

similar issues have raised their heads in the past as well. However, Martial Law and dictatorship have proven to be worse issues in Pakistan.<sup>129</sup>

The sectarianism is being spread through some religious madras that is exploiting innocent children. In fact, the rulers as well as external powers were guilty in that context.<sup>130</sup> He suggested that the government bring reforms in the education system as well as establish educational institutions in rural areas. Secondly, the government should control the use of weapons in the country and Afghan immigrants should be bound to their camps. Thirdly, the government should create jobs opportunities in the country. Javed Ibrahim Paracha PML (N) criticized the education system and called it outdated.<sup>131</sup> He also criticized the foreign policy of the government and alleged that the government is completing America's agendas, and arresting of Yousaf Ramzi was one of such examples.

Moreover, the religious scholars do not have any link with terrorism. Baboo Ghulam Hussain (PPP) was against speedy courts and stated that speedy courts could not resolve the issue. The Government should settle the issue through dialogue with all schools of thought.<sup>132</sup> Mian Nasir Ali Baloch PML (N) disclosed the worse conditions of law and order in the country and requested that all political parties should make consensus on the issue.<sup>133</sup>

Mian Muhammad Munir PML (N) made some suggestions which were as follows;

1-The differences between various schools of thoughts should be resolved through dialogue under the close supervision of government officials.

2-The religious institutions that have link with foreign aids must be banned.

3-The weapons in the country must be controlled and their open use should be banned.

4-The religious schools that were delivering sectarian education must be banned in the country.<sup>134</sup>

Rana Zahid Tuseef PML (N) proposed that imprisonment in case of illegal activities should be increased. Tariq Aziz PML (N) pointed out various types of education in the country; three types of education systems were running in the country that is creating a vast gap

among the masses. Wali Muhammad Khan (PPP) demanded that under the constitution, the government does not have the power to curb freedom of thought. Dr. Fahmida Mirza (PPP) criticized the role of intelligence agencies in the country that were not working properly. Abdul Ghani explained three major reasons that were creating the issue;

1. Pakistan's alignment with the Western world and the USA is creating an issue.
2. The biases regarding caste and tribes are also promoting the issue.
3. Some individuals, in key posts, were creating issues and their behaviour is very negative in that context.<sup>135</sup>

Syed Naveed Qamar stated that the government should not interfere in the police system but SHO to SSP was to be appointed on recommendation by the politicians. Secondly, religious factors have been brought into politics and religious slogans were being used for personal political interests.<sup>136</sup> He demanded modern method of investigation and laboratories but there was no expert in Pakistan to supervise such establishments. He also proposed that the Anti-Terrorist Force should be established in the country.<sup>137</sup> Ghulam Ahmed Bilour also supported the resolution.<sup>138</sup> The Government then made collaboration with the opposition and admitted to the resolution.

### **5.10- Contempt of Court Bill-1997**

The right to appeal by the aggrieved party bill was passed in the National Assembly on November 6, 1997. Federal Minister, Khalid Anwar expressed that the right to appeal is the basic right of every citizen, while the contempt of Court Act 1976 was silent on that right. Supreme Court pressed charges of contempt of court against the Prime Minister during judicial crises and compelled him to appear in the court personally. Justice Sajjad Ali Shah was totally against Anti-Terrorist laws as well as the courts, while PML (N) was in favour of those laws and wanted speedy trial and result. It created a vast conflict between the government and the Chief Justice.<sup>139</sup> The Chief Justice had forwarded a list of five judges of

High courts for promotion on August 28, 1997 that was not admitted by Prime Minister due to some private affairs.<sup>140</sup>

In the list there was one judge who had decided against Nawaz Sharif's family in several cases while another judge was also in the promotion list who had remained Federal law Secretary in PPP government. The government, while acting against the list, issued notification to reduce the number of seats for judges in the Supreme Court to five. However, Chief Justice declared the notification null and void.<sup>141</sup> Consequently, government took back the notification on September 16, 1997, but confrontation was at full swing between the government and the judiciary. The suspension of 14<sup>th</sup> Amendment by the court resulted in confrontation atmosphere and the Prime Minister and his allies made very harsh speeches against the Chief Justice and Supreme Court which they called 'illegal and unfair suspension'.<sup>142</sup> The behaviour of the government led to contempt of the court proceedings against the Prime Minister and his cabinet.<sup>143</sup> In order to save the Prime Minister, National Assembly passed the bill but it could not receive assent of the President due to pressure from the Judiciary.

Later on, with the intervention of Army Chief, these cases were adjourned for about a week.<sup>144</sup> Main Muhammad Yasin Watto PML (N) moved the bill that was opposed by Syed Khurshid Shah (PPP). Benazir Bhutto was actually not in favour of the bill and she stated that in Pakistan, contempt of court is a very serious issue, in fact it more serious than murder cases. She alleged that the advisors of the Prime Minister were creating a conflict between the government and the judiciary.<sup>145</sup> Mr. Khalid Anwar defended the government and criticised the bill and called it an awful intention of the government against the judiciary. Dr. Fahmida Mirza alleged that the government was repeating the history of dictatorship. However, in the end, the Speaker passed the bill motion.



### **5.11- The Census (Amendment) Bill-1997**

The first census was held in Pakistan in 1951 and second was held on time in 1961.<sup>146</sup>The third census could not be held in 1971 due to crises of East Pakistan and was held in 1972.<sup>147</sup>The fourth census was held in Pakistan in 1981.<sup>148</sup>The fifth census could not be held in 1991 due to some political issues and was carried out in 1998.

The census has a significant place in the development and planning of any country. “The important lesson learnt from the history of population in Pakistan is regarding the links between census and National Finance Commission (NFC) award distribution, determination of seats in the National and Provincial Assemblies, and political and administrative policymaking.”<sup>149</sup>The census ordinance was originated in 1959 but some minor amendments were made to it in 1991. However, these amendments had addressed very petty issue like, Council and Chief Commissioner of census. For the first time very effective amendments were made in census Ordinance in 1997 that were concerned with the entry of Fake data and its penalties. The section 13 was added in the bill that increased the punishments regarding entry of fake data.<sup>150</sup>The penalties were very minor in the ordinance of 1959 that encouraged the entry of wrong data during the census. During the war of Afghanistan, approximately 2000000 Afghans came to Pakistan and now majority of them have gotten nationality of Pakistan on the basis of fake data. In that context some regional political parties had provided illegal support to ensure votes in their favour.<sup>151</sup>To control such malpractices, Sardar Kamil Umar PML (N) moved the bill as reported by the standing committee. Syed Naveed Qamar criticized the government that it was ignoring the real issue and increasing punishments unnecessarily.

Census has lost the importance in the country because it is not providing any benefit or loss to anybody.<sup>152</sup> He suggested that impartial authority could solve the issue but only punishments could not guarantee positive results. Aftab Shahbani Mirani (PPP) highlighted

the importance of census. According to him, the last census was held in 1981 and without a census report the ratio of population cannot be found.

At the inception of Pakistan, the population of the country was approximately 35 million which increased up to 135 million.<sup>153</sup> Sardar Kamil Umer described the importance of census as well as National Data that will be linked with the ministry of interior and defence. The amount of fine would also be increased up to 15000 rupees from one thousand rupees levied in 1959. At that stage deputy Speaker moved the motion that was adopted.

### **5.12- Discussion on Resolution: Proposing Extension in Quota System for Another Twenty years**

Syed Naveed Qamar (PPP) moved for the resolution that was adopted on June 30, 1998 in the National Assembly. The ANP, PPP and FATA members of National Assembly were supporting that resolution along with Syed Asghir Shah Minister. On that eve Rana Tanveer (Secretary Parliament Affairs) pointed out that PPP was responsible for the said resolution because when PPP was in government that quota had expired three years ago, and PPP had not accepted the stance of the government in that context.

The Speaker National Assembly formed a committee that was comprised of more than 24 members. The committee drafted the resolution jointly that was a little different from the prior resolution. Wajid Ahmed Karim Dad Baloch PML (N) explained that the government was ready to extend the quota system for another 20 years. Pir Aftab Hussain Jilani (PPP) highlighted the importance of quota system. He expressed his concerns for that the major portion of the population living in the rural areas where basic facilities were not adequate.

The Constitution of 1973 had declared that rural areas did not have an equal status to cities. For development of such areas, a quota system plays a very integral part. Rana Zahid Tuseef PML (N) had rejected quota system and demanded education on equal basis.<sup>154</sup> Wali Muhammad Khan (PPP) also supported the resolution and demanded that education must be delivered in the mother tongue.

Dr. Fahmida Mirza (PPP) made a very long speech in the House and supported the resolution. According to her quota system is very important because it was followed in the Zia era. Chaudhry Sikandar Hayat Melhi stated that on the inception of Pakistan 20 % was merit based and 20 % was quota system in the West Pakistan and 20 % quota system was reserved for East Pakistan. Moreover, 2% of the quota was especially reserved for Karachi. In 1973 Z. A. Bhutto introduced a new quota system and 50% quota was given to Punjab and 11.5 % was given to KP.K. Baluchistan was given 3.5%, Sindh 19%, Karachi 2% and FATA was allotted a 4 % of the quota. Sind had been divided further into urban Sind and rural Sind.<sup>155</sup> On the basis of that division Punjab was also divided into rural and urban areas. The Supreme Court declared that quota system was illegal, and the merit is not properly defined in Islam.<sup>156</sup> He demanded that Federal Service Commission should take exams separately from every province and it would not go against the Supreme Court judG. M.ent. Mir Hasil Khan Bezenjo (BNP) supported the quota system. However, he had some reservations regarding the system because his province was not getting proper shares in the federal services. Tariq Javed also opposed the quota system and called it harmful for the development of the country.<sup>157</sup> Chaudhry Muhammad Ashraf PML (N) also opposed the quota system and called it harmful for the development of science and Technology because it was creating a sense of disappointment among the intellectual and creative class. In the end, the resolution was admitted.

### **5.13- The Constitution (15<sup>th</sup> Amendment) Bill-1998**

The Bill was moved in National Assembly on August 28, 1998 and it was passed on October 9, 1998 by an over whelming majority of 151 against 16 votes. The 15<sup>th</sup> amendment had an amended Article 239 with an addition of a new article 2 B in the Constitution. The bill proposed that;

Whereas sovereignty over the entire universe belongs to Almighty Allah alone and the authority which He has delegated to the State of Pakistan through its people for being exercised through their chosen representatives within the limits prescribed by Him is sacred trust; and Islam is the State religion of Pakistan and it is the obligation of the State to enable

the Muslims of Pakistan individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam set out in the Holy Quran and Sunnah; “And whereas in order to achieve the aforesaid objective and goal, it is expedient further to amend the constitution of the Islamic republic of Pakistan; now therefore, it is hereby enacted as follows;

Addition of new Article 2B in the constitution of the Islamic Republic of Pakistan, hereinafter referred to as the said constitution after Article 2A, the following new article shall be inserted namely 2B supremacy of the Quran and Sunnah;

(i)The Holy Quran and sunnah of the Holy prophet (PBUH) shall be the supreme law of Pakistan.Explanation: In the application of this clause to the personal law of any muslim the expression “Quran and Sunnah”shall mean the Quran and Sunnah as interpreted by that sect.(ii)The federal government shall be under an obligation to take steps to enforce the Shariah to establish salah to administer Zakat to promote amr bil maroof wa nahi anil munkar (to prescribe what is right and to forbid what is wrong) to eradicate corruption at all levels and to provide substantial socio economic justice in accordance with the principles of Islam,(iii)The federal government may issue directive for the implementation of the provisions set out in clause (i) and (ii) and may take the necessary actions against any state functionary for non-compliance of the said directives. (iv) Nothing contained in the article shall affect the personal law, religious freedom, traditions or customs of non-Muslims and their status as citizens. (v) The provisions of this article should have effect notwithstanding anything contained in the constitution in any court.<sup>158</sup>

The bill was criticised by all segments of the society. Even some members of the ruling party opposed the bill. Nawaz Sharif had to call upon his members, who were opposing the bill, to resign. As a result Khurshid Kasuri had to tender his resignation in that context that was not accepted by the Prime Minister.<sup>159</sup> Later on, the bill was modified with reference to the clauses relating to executive directions, and the constitutional amendments by simple majority were withdrawn. The modified bill was also opposed by ANP and PPP.<sup>160</sup>

Moreover, FATA members and four minority members supported the bill while all other political parties opposed it.<sup>161</sup> The bill was considered as an effort by Nawaz Sharif to enforce his personal dictatorship on the whole system of the country.<sup>162</sup> The bill was totally against the status of women as well as freedom of press. The clause 2 and 4 of the bill were against the constitution of Pakistan because under the bill the government was given the power to implement *Shariat* according to its own will and wishes, even if they were against the supremacy of the constitution. The opposition parties, as well as human rights organizations, jointly arranged an anti-bill rally in the country.<sup>163</sup> It was a perception that if the bill was passed, Pakistan would become like Afghanistan. In a nutshell the bill was constituted of several impractical articles. In such circumstances the bill was debated and then got an assent from the National Assembly of Pakistan. However, the Senate became a

hindrance in its way where the ruling party did not enjoy majority. The combined opposition had 43 votes in the Senate out of 87 which the government needed and 58 votes were required to pass the 15<sup>th</sup> Amendment. The bill was not therefore put before the Senate. Mian Muhammad Yasin Khan Wattoo PML (N) moved the bill as reported by the standing committee. Several members of the opposition also opposed the bill. Minister Yasin Wattoo described the objective of the bill and said that the Article 2 (6) that was being inserted in the constitution would provide the holy *Quran* and *Sunnah* with the power to become the supreme law of Pakistan.<sup>164</sup> He further stated that the aforesaid article would bring Islamic revolution in the country and the Government would implement *Shariah* system in the society.

The clause 4 of the bill is related to the rights of the minorities and all rights like personal laws etc. have been protected by the bill. The current bill is an enormous step to enforce Islamization of the society. Syed Khurshid Ahmed shah (PPP) opposed the bill and stated that through the bill the government wanted to bring dictatorship in the name of Islam. Mr. Javed Ibrahim Paracha PML (N) opposed the bill and said that the government is making *Quran* and *Sunnah* controversial in the eyes of the masses. He demanded a Friday holiday and abolishment of interest and that the government must withdraw appeal in favour of interest.<sup>165</sup> Abdul Hamid Jatoi PML (N) was also against the bill. According to his statement there were 95% Muslims in the country and therefore, Islam is not in any danger. The amendment was being brought about with simple majority that would be destructive for the country and democracy, and would create a sense of deprivation in the small provinces. Asfand Yar Wali (ANP) criticized the amendment and called it against democracy and that it would bring dictatorship like Raja Ranjit Singh period.<sup>166</sup> The current government was demanding unlimited powers like General Muhammad Zia-ul-Haq and Hitler.<sup>167</sup>

Haji Ghulam Ahmed Bilour (ANP) stated that Mufti Mahmud, Mawlana Shah Ahmed Noorani and Professor Ghafoor Ahmed were the members of National Assembly during the

time when constitution of 1973 was formed and they were not against the *Shariah*. So, Constitution of 1973 is according to injunction of Islam. But current bill is against the Islam and constitution that would snatch all power of the Parliament, and it will be death warrant of democracy.<sup>168</sup> After the enforcement of *Shariah*, *Jizya* (Tax) will be applicable on minorities and they would be second class citizens in the country. The family laws and interests would also be changed automatically. Mir Hazar Khan Bijrani also criticized the bill. According to him all powers would go in the hand of the Prime Minister. The judiciary will be under the control of the Prime Minister and he will be more powerful than the Judiciary<sup>169</sup>The constitutional articles 2,2A,20,301,37,38,40,62,63,203,207,228,229 and 230 were all related to Islamic injunctions. Council of Islamic Ideology had presented a very comprehensive report on legislation. The council presented review on 3390 laws and moved 704 laws for amendment. If the government observed the report, it would create harmony among the followers of Islam.<sup>170</sup> Shariat Court had declared interest as forbidden in 1992 but the interest system is still in full swing in the country. Three types of Islamic system are working in the world today; Saudi Arabia Islamic system, Afghanistan system and Iran Islamic system. The Saudi Islam system is closer to Monarchy while Iran system is based on *Shia* school of thought and both were not acceptable in Pakistan.

In Afghanistan religious scholar's Council is running the system and that is also not acceptable in Pakistan.<sup>171</sup> Ghulam Dastgir Khan PML (N) supported the bill and said that it would prove to be helpful in maintaining justice in the country. Sana Ullah Baloch PML (N) criticized the bill and alleged that it would create sectarianism in the society because the government is supporting Taliban and Mulla Umar.<sup>172</sup> Muhammad Azam Khan Hoti (ANP) pointed out that in Islam, Parliament had no place but a regular army does exist. Through the current bill, the whole system of democracy would erupt.

Moreover, it is a violation of the constitution and Constitutional Article 6.<sup>173</sup> Abdul Hamid Jatoi PML (N) criticized the bill and stated that the constitution did not have provincial

autonomy but he had recommended the constitution in 1973, while the current bill would be more harmful to the country.<sup>174</sup> *Mawlana* Moeen-ul-Din Lakhvi PML (N) pointed out that Objectives Resolution was an integral part of the constitution so the current bill was not needed. *Mawlana* Muhammad Khan Sherani JUI (F) explored the events of history. In 1953 PML was in power but it did not resolve the issue of *Qadiyani (Ahmedi)* in fact, it had opened fire on the protestors who were protesting against *Ahmedis*. The Constitution of 1956, Article 25 declared that the government would take steps to provide opportunities to people to adopt the Islamic way of life. The 1962 Constitution Article 197 declared that the President would establish the Islamic research institutions that would renovate society into a modern Islamic society.<sup>175</sup>

PML (N) government moved *Shariat* the bill in parliament in 1991 but all in vain and no positive and long term change took place in the society. Tariq Javed MQM (HPG) quoted the Constitutional Article 31, “Steps shall be taken to enable the Muslims of Pakistan, individually and collectively to order their lives in according with the fundamental principles and basic concepts of Islam.”<sup>176</sup> He said that the legislation already existed but the government did not want to enforce those principles. So the current amendment was not needed. Mian Anwar-ul -Haq Ramay PML (N) also criticized the bill. According to him the government is playing the role of a hypocrite regarding the implementation of Islam. All provisions concerning Islam were already in the constitution, and therefore there was no need of a new amendment. The current amendment would only prove to be harmful to the provincial autonomy and powers of the Senate.<sup>177</sup> Professor AK Shamas (MQM) opposed the bill and called it awfully hazardous for the country.<sup>178</sup> Shabbir Ahmed Khan Chandio (PPP) was against the bill and said that the government was violating the rule of 2/3 majority in The House and that it would create grievances among small provinces. In a nutshell PPP, ANP, MQM, JUI (F) and even several members of PML (N) were against the bill but its motion was adopted by the government.

## **5.14- The Foreign Exchange (Temporary) Restriction Bill-1998**

The foreign Exchange Restriction bill received an assent from the President on September 25, 1998.<sup>179</sup> The major amendments were made by section 2 in the Act. Section 2 says, “Restrictions on withdrawal of foreign exchange etc. notwithstanding anything contained in the protection of economic reforms Act-1992 (XII of 1992), or in any other law for the time being in force, or in any agreement or contract, it is hereby provided that the right to hold, see, withdraw, transfer, pay or taking out foreign exchange held by any person in Pakistan as on the twenty eighth day of May,1998 without the prior permission of the State Bank of Pakistan shall remain suspended.”<sup>180</sup>

In general elections of India *Bharatiya Janta Party* (BJP) emerged as major party in the Indian parliament. It formed government with the assistance of some regional parties. It detonated nuclear devices on August 11, 1998 and at that time the behaviour of the BJP leaders toward Pakistan was very harsh and aggressive that showed intention to invade Azad Kashmir.<sup>181</sup> As a result, Pakistan exploded five nuclear tests on May 28, 1998 in response to the Indian explosions.<sup>182</sup>

On the same day, May 28, 1998, the Government proclaimed the emergency order in the country under article 232 of the constitution of Pakistan 1973. The fundamental rights of the masses were also suspended in the light of the emergency order at once.<sup>183</sup> Second step the government took was to freeze all foreign accounts in all Banks of Pakistan, which was a clear violation of the economic reforms Act of 1992.<sup>184</sup> The emergency order as well as the act of freezing the accounts in the banks created great panic among the middle class society of Pakistan.<sup>185</sup> Both actions were taken by the Prime Minister of Pakistan under the pressure of USA and Japan because internationally some financial restrictions had been imposed in the response to the nuclear tests done by Pakistan.<sup>186</sup>

In that context, Sardar Kamil Omer PML (N) moved the bill that was opposed by Syed Naveed Qamar. According to Syed Naveed Qamar, it was an immense bank robbery done by



government. Government took all powers in hands and froze the foreign accounts in banks.<sup>187</sup> People of Pakistan had put their trust in the government of Pakistan but their faith was severely shaken. The government was destroying the economy of the country and snatching the constitutional rights of provinces. Emergency can be imposed only during the period of war or external aggression or when there is grave threat from within the country. The current government pushed the country to the brink of crises. The bill also had a lot of loopholes and was against the constitution of Pakistan. It was also against the injunction of Islam and clearly against the banking regulations. He demanded the bill must be withdrawn by government. Mr. Aftab Shahban Mirani (PPP) called 29<sup>th</sup> May the darkest day in the history of Pakistan because on that day government had imposed emergency in the country. The countries of the world experimentally caused nuclear explosions but did not declare emergency in their countries. Over 11 billion dollars have been frozen without any solid reason.<sup>188</sup> Pir Aftab Hussain Jillani (PPP) criticized the bill and stated that through such bills the government wanted to legalize bank robbery, and on the basis of principles it was not correct. Haji Ghulam Ahmed Bilour (ANP) stated that before 1992 foreign accounts were not in operation and that Nawaz Sharif opened those accounts. Now the same government was snatching away the fundamental rights of the masses.<sup>189</sup> Dr. Fahmida Mirza (PPP) condemned the policy of the government and alleged that the powerful people had already transferred their amounts to foreign accounts.<sup>190</sup> Mr. Asfand Yar Wali (ANP) opposed the bill. Baboo Ghulam Hussain (PPP) stated that through existing bill the government wanted to end the investment in the country and again wanted to introduce the handy system in the country while Sardar Kamil Omer defended the bill and explained its importance. Mir Hazar Khan Bijrani PPP (SB) requested that the bill should be referred to the Council of Islamic Ideology.<sup>191</sup>

Pir Aftab Hussain Shah Jillani (PPP) quoted the Hadith of Last Prophet Muhammad (S.A.W.W.); “O, people your lives, your honour and your properties are to be respected by

one another till the day of reckoning comes.”<sup>192</sup> He also demanded that the bill be referred to Council of Islamic ideology. The PPP, ANP, PPP (SB) and several other members were opposing the bill but it was passed without any amendment.

### **5.15- The Pakistan Arms (Amendment) Bill-1997**

The same bill was introduced in 1991 during the government of PML (N). The PML (N) tried to control the crime rate in the society through special courts, military courts and control of arms in the society. On the eve of 12<sup>th</sup> amendment Nawaz Sharif said that the protection of the citizens is the top most priority of the government and no obstacles would be allowed to disrupt the peace in the society and the government would deal with the culprits with an iron fist.<sup>193</sup>

The current bill was link in the chain of previous steps to control crime in the country. In that context Mian Muhammad Yasin khan Wattoo PML (N) moved the bill which was opposed by Shamasur Rehman Kattak (ANP). He stated that to keep arms in Punjab is fashion, whereas in NWFP it is a need because without personal arms, protection of properties and lives was not possible.<sup>194</sup> Aftab Shahban Mirani (PPP) mentioned clause 2 part 3 of the bill; “The provision of section 2 shall apply to all cases pending in any court immediately before the commencement of the Pakistan Act, 1997 and all such cases shall stand transferred to the court by which they are tribal in accordance to the sub section.”<sup>195</sup> He mentioned many cases in his District that had been registered on political basis. For instance, several people were in jail for the last two years due to fake cases of arms.<sup>196</sup> Shahbir Ahmed Khan Chandio (PPP) alleged that the government had no power to control tribal clashes at any cost. He called it blind law.<sup>197</sup>

### **5.16- The Constitution (Amendment) Bill-1999**

Mir Hazar Khan Bijrani (PPP (SB) moved the bill and Syed Zafar Ali Shah opposed it. Mir Hazar Khan Bijrani elaborated the objective of the bill. According to him, the whole House

had agreed for the revival of reserved seats for women in the National Assembly. The 52% population of the country is made of women.

Moreover, PML (N) manifesto in election was same as the bill but later PML (N) was opposing the bill.<sup>198</sup> Minister for population welfare (Syeda Abida Hussain) made a very long speech and pointed out the poor condition of women especially in the education sector. Through current system of election women could not secure their due rights. That is why in 1973 Constitution had granted reserved seats to women. The same rights were admitted in 1985 and seats were increased from ten to twenty percent.

In the 1988 Parliament, women had occupied many reserved seats.<sup>199</sup> According to opposition stance, nomination of women in parliament is not justification. But women should participate in general elections.<sup>200</sup> Syed Zafar Ali Shah said that the government also wanted representation of women but it had difference of opinion as to the mechanism to be devised and used, with the opposition. The current government granted representation of women in local bodies' election and the committee was working on the issue. The government would bring the amendment with consent of the opposition in the Parliament.<sup>201</sup> Syeda Abida Hussain moved the motion for special committee of this House to be constituted within 60 days and Mir Hazar Khan Bijarani fully endorsed the proposal of Syeda Abida Hussain but in this case, the speaker rejected the bill motion.

### **5.17- The Constitution (16<sup>th</sup> Amendment) Bill-1999**

The bill received an assent from the President on August 3, 1999.<sup>202</sup> Under the Article 27 of constitution of Pakistan 1973, every citizen of Pakistan had equal rights without any discrimination like sex, race, religion and areas.<sup>203</sup> But on ground, some lack of education facilities in some special areas in the constitutions quota was granted for ten years for those areas.<sup>204</sup> Later on, under the 8<sup>th</sup> Amendment 1985 that quota was extended for twenty years.<sup>205</sup> Again it was due to expire in 1999, and the government introduced the 6<sup>th</sup> Amendment and made some amendments in the Article 27.<sup>206</sup> In that context Minister for

Law (Mr. Khalid Anwar) moved the bill as passed by the Senate but Mr. Kunwar Khalid Younas MQM (HPG) opposed the bill.

He mentioned the definition quota, according to the Black Law Dictionary 1996 Edition; “The meaning of quota is a proportion, part or share the proportion part of a demand or liability falling upon each of those who are collectively responsible for the whole.”<sup>207</sup> In the province of Sind there were two types of quota system, urban and rural. In Pakistan there is no precedence like that. In a country the merit system should be enforced. Everybody should get everything on merit basis. Islamic Laws and Shariat Court also support the merit system; it is unclear as to why the government is snatching rights of urban Sind.<sup>208</sup> Punjab had need quota system because Southern Punjab is facing lot of problems. Muhammad Arif Khan Advocate MQM (HPG) opposed the quota system and called it un-Islamic and had been declared null and void by Shariat Court. In the Standing Committee, the dissent note was written by him. The quota system does not represent the rights of all citizens not does it protect the justice.<sup>209</sup> Tariq Javed MQM (HPG) criticized the quota system. He quoted Constitutional Article 6 regarding high treason; “Any person who abrogates or attempts or conspires to abrogate, subvert or attempt or conspire to subvert the constitution by use of force or show of force or by other unconstitutional means shall be guilty of high treason.”<sup>210</sup> The object and reason for the 6<sup>th</sup> Amendment was that certain posts may be reserved for persons belonging to any class or areas since equal opportunity of education and other facilities were not yet available to all citizens of Pakistan for the period of twenty years specified in clause 1 of Article 27 and can be extended to years.<sup>211</sup> He further quoted Constitutional Article 37; “The State shall promote with special care, the educational and economic interest of backward classes or areas; the State shall remove illiteracy and provide free and compulsory secondary education within minimum possible period. The State shall do all things.”<sup>212</sup> Dr. Nishat Malik MQM (HPG) also opposed the amendment for two reasons. First, the 1973 Constitution had enforced quota system because that at time there

was disparity in the country but the government did not develop the areas. Second reason is that now each and every area had equal facility.<sup>213</sup>

At that stage the speaker put the motion to the House and the requisite motion was adopted by the House. Dr. Nishat moved the motion in which he demanded that new provision should be inserted namely; “Provided further that the Provincial allocation reserved on the basis of population shall not be further sub divided or bifurcated by any Province on any grounds or classification whatsoever, including sub division or bi-fraction on the basis of class, region or area.” He stated that quota system is one kind of punishment.<sup>214</sup> Mr. Khalid Anwar opposed the new clause. The MQM (HPG) was the major opponent of the quota system. However, the bill was passed without any amendment from the opposition.

### **5.18- Dismissal of Nawaz Sharif’s Government**

Nawaz Sharif enjoyed important powers through the 13<sup>th</sup> Amendment, undermining the legislative powers through the 14<sup>th</sup> Amendment and forcing out the Chief Justice of Supreme Court from his office. He had tried to get more power through 15<sup>th</sup> Amendment but very grave conflict arose between him and the army. Consequently, General Jehangir Karamat, the then chief of army staff resigned from his office on October 8, 1998.<sup>215</sup>

The performance of PML (N) government was very poor during the period of 1997 to 1999 in all aspects. In the political sense its performance was not remarkable as it could not even maintain alliances with old allies like ANP that turned hostile towards his regime.<sup>216</sup> The Kargil issue sped the down fall of the government that had widened gaps between the government and the military. Although Nawaz Sharif tried to appease General Pervaiz Musharraf and appointed him as chairman of joint chief of staff committee but mutual trust could not be developed between them<sup>217</sup>

When Pervaiz Musharraf was on an official visit of Sri Lanka, Nawaz Sharif appointed a new army chief Lt-General Ziauddin who was then Chief of ISI. The senior army command

was not willing to change of command that way. The corps command decided to move in and take over the government by overthrowing Nawaz Sharif's government.

There were three major factors that played important role in that context.

First, "Nawaz Sharif's government's personalized and whimsical governance by appointing trusted personnel or nonentities to key positions, so that there was no resistance to the decisions made by Nawaz Sharif in consultation with small group of advisers hailing from Lahore/Islamabad area. After appointing loyalists to the posts of the President and Provincial Assemblies, Governors and taming major State institutions, including the higher judiciary, through constitutional amendments and manipulation he tried to penetrate the hard shell of the military of Pakistan."<sup>218</sup>

Second, Nawaz Sharif began to interfere in the internal affairs of the army like, promotions, transfer, etc. that created a drift in the relations with the army. Moreover, the role of the opposition was not positive in that sense. The several opposition leaders made direct and indirect appeals to the army to remove the government. The government felt that it must have the unquestionable support of the army to deal with the opposition. Consequently, Nawaz Sharif adopted the strategy to appoint loyalists on key posts.<sup>219</sup>

Likewise, *Shariat* Bill, Kargil issue, bad governance and one point agenda of grand democratic alliance (GDA) made the path to destabilize the government of PML (N) during 1997 to 1999. On October 13, 1999 General Pervaiz Musharraf announced the control of the government and October 14, 1999 he became Chief executive of the country.

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## CONCLUSION

In the democratic system of government, the opposition is a political group or party that desires to change the government and its policies and programs democratically. The opposition is an integral part of the democratic system all over the world. The opposition is necessary for the smooth running of the democratic system and it can criticise government policy without any fear or charge. The opposition had its own policies and programs which it plans to implement when it comes into power.

In other words the opposition is a government in waiting; it can point out the weakness of the legislative work of the government as well as governance through debates, and various other parliamentary procedures. The opposition exercises an oversight on not only the way the government operates, but also on those societal entities whose conduct can affect the welfare of the people. History testifies that freedom is severely compromised when criticism stops. However, in a democratic system, the opposition is expected to respect the constitution, avoid undue criticism and shun the policies of obstruction. But the opposition's role in Pakistan had been quite negative and it may be said that Tierney's words capture the essence of the Pakistani oppositional politics, "The duty of an opposition is to propose nothing, oppose everything and turn out the government." Pakistan witnessed a trend of non-collaboration ever since the start of its democratic system. In 1947 when Pakistan came into being, the opposition was very weak and did not have any ideology or a well-thought-out plan against the ruling political party. On the other side the PML kept the opposition away from power by hook or crook and passed numerous repressive laws against the opposition. The opposition's demand to amend the Objectives Resolution too was not accepted by the government.

The National Congress demanded that the Objectives Resolution must be circulated among the public for awareness but the government did not accept its demand and adopted the Objectives Resolution as policy principle for the constitution. This was the starting point of stubbornness in Pakistani politics. On the issue of One Unit scheme, the government

victimised the opposition members especially in the Sindh province. Abdus Sattar Pirzada, G. M. Syed, Pir Elahi Bakash and Qazi Fazlullah were tried for made-up cases and also bore hardships of imprisonment for their opposition to the One Unit. The opposition criticised the second draft of the Constitution of 1956 especially the Islamic provisions of that Constitution. Later on, the government Collaborated with the opposition to some extent and accepted two amendments proposed by the opposition that were related to Hindu educational institutions and protection of the rights of the minorities in the Constitution. However, Awami League showed stubbornness and boycotted the session of the Legislative Assembly. It did not sign the document of the Constitution of 1956.

In a nutshell, the first tenure of Parliamentary government was a period of non-collaborated and confrontation. The second era of parliamentary politics under the government of Zulfikar Ali Bhutto too was to see the government being vindictive towards the opposition and the opposition showing a lack of maturity. Bhutto victimised his political opponents and incarcerated them in made-up cases. He dismissed the government of NAP and JUI in Baluchistan against democratic norms. The opposition for its part too acted negatively, under the banner of United Democratic Front, by making efforts to oust the Bhutto government

However, there were instances of collaboration between the Bhutto government and the opposition. A prime example of this collaboration was seen in the switch to the parliamentary form of the government for which the opposition had convinced Bhutto who was inclined towards the Presidential form of the government. The Opposition collaborated with the government in the formulation of the Constitution of 1973 as a result of which the Constitution was passed with majority votes of 137 in the lower house. The definition of Muslim was included in the constitution due to the efforts of the opposition and the two sides of the house collaborated to declare the *Qadianis* non-Muslims. Though there were a number of instances where the government and the opposition collaborated there were also cases where the Bhutto government showed arrogance and did not consider the opposition's stance

and passed amendments unilaterally. The 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Constitutional Amendments were good examples in this context. The opposition established Pakistan National Alliance against the Bhutto government. The main objective of the alliance was to oust the Bhutto government by any means. Later on the PNA supported General Muhammad Zia-ul-Haq's Martial Law and its members joined the General Muhammad Zia-ul-Haq government and even became cabinet members.

Simply put the opposition supported a military government against a democratically elected government. Democracy returned to the country after a long interval but the fact is that even in a democratic period the system remained under the influence of the civil-military bureaucracy which had the support of the capitalists feudal lords and similar powerful elements.

The opposition's role during the period 1988 to 1999 was not remarkable but the ineffectiveness and inefficiency stemmed from, among other factors, the fragile state of democracy in the country. The opposition could not maintain its balance relations between elected government and non-democratic powerful elements in the country like military and President. In fact during the power game it could play role as counterweight between President and Prime Minister and could save the system but it had failed in that context.

Instead of strengthening the democratic system, the opposition repeatedly aligned itself with non-democratic powers. Instead of seeking to replace the incumbent government through democratic procedures, the opposition always sought to secure an alliance with the powerful President or appealed for direct military intervention. There is little doubt that in the period the opposition played in the hands of anti-democracy forces and weakened not the government but democracy in the country.

In the period of the first PPP government (1988-1990), the opposition's role was negative as since day one it made it clear that it would not wait for give the government the stipulated period of time to rule the country. The IJI was an alliance of different parties and all of them

wanted the PPP government sacked. The Islamic element was strongly against the government especially on the issue of woman headship. The JI moved a motion on the issue of woman headship in the National Assembly of Pakistan in which it claimed that Benazir Bhutto was not eligible for the post of Prime Minister because woman headship was against the injunctions of Islam. When the motion was not admitted the JI boycotted the proceedings of the National Assembly. The dissolution of Baluchistan Assembly by the government also created unnecessary agitation drove the government and the opposition further apart. The confrontational politics were at full swing during the era of 1988 to 1999. The bad blood between the government and the opposition led to the opposition moving a motion to demand that the PM take vote of confidence from the National Assembly because under Article 91 (2A), PM was bounded to seek vote of confidence after March 20, 1989. However, the government did not accept the interpretation of the opposition.

On November 23, 1989 the combined opposition moved a no-confidence motion against the PPP government in the National Assembly of Pakistan. The opposition as well as the government did not hesitate from employing undemocratic ways including grafts to secure bolster themselves to deal with the motion. The PPP government got G. M. Ahmed Manika, Akbar Lasi and Makhdoom Anwar Alam to switch sides by promising them cabinet slots. This switch was particularly important as these three were the movers of the no-confidence motion and their switching sides was a big loss for the opposition Nawaz Sharif the incumbent Chief Minister of the Punjab was the main supporter of the no-confidence motion and used the government's resources to get the members to vote against the government. Other than offering monetary benefits for voting for a particular side the period will be remembered for the PPP's decision to move 90 MNAs to Peshawar to keep them from receiving offers to switch sides.

The PML (N)'s main agenda was to cripple the PPP government in the National Assembly of Pakistan and not to allow it to complete its tenure. The opposition also exploited religious

sentiments of the people against the government. It played up the controversy created by the publication of The Satanic Verses and started a massive campaign of agitation despite the fact that the government had a stance similar to that of the opposition on the issue. The agitation that the opposition had started resulted in an attack on American Culture Center which left five people dead and several injured. Thus the opposition was able to cripple the government to a large extent.

The government and the opposition clashed on the 8<sup>th</sup> Amendment also. The PPP wanted to repeal the amendment while the IJI was in favour of the amendment. Sheikh Rasheed Ahmad (IJI) alleged that through the repeal of the 8<sup>th</sup> Amendment the PPP wanted to establish one party system as well as wind up the country's nuclear weapons programme. Another IJI member Chaudhry Abdul Ghafoor said that 8<sup>th</sup> Amendment had been incorporated in the Constitution in the light of the events of 1977. The opposition viewed the amendment as a counterweight to the PPP as the largest party in the National Assembly.

In its tirade against the government the opposition accused Benazir Bhutto of sharing confidential military information with Rajiv Gandhi in 1989. The opposition alleged that Al Zulfikar was a subsidiary of the PPP and it was involved in terrorist activities funded by India. The opposition's attacks on the government were at times personal as Sheikh Rashid Ahmed passed crude and indecent remarks against the Benazir and Nusrat Bhutto on the floor of the house. In response the PPP members criticised General Muhammad Zia-ul-Haq and Nawaz Sharif and alleged that Nawaz Sharif and his family were involved in plundering the resources of the country.

In the conflict between the President and Prime Minister, the opposition always supported the decision of the President. The Parliament was envisioned as sovereign but then the Constitution was tinkered with to award the President the power to dismiss a government and dissolve the Parliament under the Article 58(2) b. Any use of this power by the President



found support in the opposition and the Parliament was helpless against this combined strength.

However, opposition and government did collaborate on the floor of the National Assembly on some issues in that period. The opposition demanded that the foreign policy should be debated in the Parliament and the government accepted the opposition's stance. The Dowry Bill and Preservation of Craft Bill were moved by the opposition and were accepted by the government in the National Assembly.

The opposition played its role of being a watchdog by bringing up a number of significant issues on the floor of the assembly such as the illegal eviction of non Sindhi from rural Sindh, the burning of the Pakistani flag at Sukkar airport by G. M. Syed's workers, illegal distribution of government funds and jobs among PPP's members of the Parliament etc. After the general elections of 1990, IJI formed the government and the PPP performed as the opposition party in the National Assembly of Pakistan. However, confrontational politics remained that the order of the day during this period too. Benazir Bhutto explicitly sought the army's help to dislodge the government and termed the move against the government beneficial for the federation. A number of other notable politicians like Nawabzada Nasrullah Khan, Asghar Khan and Malik Muhammad Qasim also appealed to the military to intervene to sack the incumbent government. On November 25, 1991 Benazir Bhutto criticized the IJI and Nawaz Sharif in the Parliament and called Nawaz Sharif, a steel and sugar thief. Moreover, she alleged that Nawaz Sharif was selling government industries to his brother Shahbaz Sharif under the guise of privatization. The government too spent time in criticizing Al-Zulfikar and the PPP. The relations between the government and the opposition can be judged from the fact that during the first tenure of the IJI (1990-1992) the PM, the leader of the House did not meet the leader of the opposition. The government also instituted corruption cases against the PPP leadership and its members of the parliament. In response the PPP boycotted the National Assembly session and started a series of anti-government

demonstrations in the country. The PPP opposed the government on various issues like *Shariah* Bill, Pakistan-India relations, the Gulf War, Nuclear Proliferation, Sindh crises and Privatization etc. To pursue her anti-government agenda further Benazir Bhutto organized a long march against the government with the objective of forcing the President to dismiss the IJI government. She asserted that the government had failed in running the country and that the country was being run by the intelligence agencies. Moreover, the economic policies especially privatization were destroying the country's economy.

Some collaboration between the government and the opposition was seen in some specific areas like privileges of Parliament members and VIP culture. In May, 1992 the assembly passed a bill unanimously which doubled the salaries and allowances of the members of the assembly. Moreover, members were allowed to import a vehicle duty free. The bill was passed despite the fact that at that time the Federal budget was showing a huge deficit. Collaboration was also seen on the bill regarding provision of inexpensive and swift justice to the people and on the issue of the cooperative scandal. Government supported opposition's motion regarding anti Pakistan statement of G. M. Syed. The Bonded Labour Bill was passed without criticism by the opposition. During her tenure as the Prime Minister Benazir Bhutto was all for the repeal of the 8<sup>th</sup> Amendment while Nawaz Sharif was against it but the switching of the roles as the government and opposition saw a switching of the views on the 8<sup>th</sup> Amendment also. Now Nawaz Sharif wanted to repeal the 8<sup>th</sup> Amendment to secure his government while Benazir Bhutto opposed the repeal as she saw in it a chance to get rid of the Nawaz government. Benazir Bhutto met the President on April 18, 1993 and handed over resignations of 42 members of her party to him to make a strong case for dissolving the parliament. The same day the President dismissed the Nawaz Sharif government under the Article of 58 (2) b. Once, again the parliament was dissolved with the active support of the opposition.

In the second term of PPP government PML (N) performed as the opposition in the National Assembly of Pakistan. The opposition's role remained antagonistic as before. The government did not hesitate from showing its strength and initiated several cases of corruption against the Sharif family. In September, 1994 the opposition launched a train march from Karachi to Peshawar in which Nawaz Sharif addressed the people at every station on the route to rouse them against the government. The government responded by registering cases against the Sharif family and even arrested Mian Muhammad Sharif (Father of Nawaz Sharif), Sheikh Rashid Ahmed, Nawaz Khokar, Chaudhry Shujat Hussain and some other opposition leaders. The confrontation also continued inside the assembly where the opposition accused the PPP government of bowing before India. In retaliation PML (N) members were physically beaten by PPP activists outside the Parliament. This time also the opposition did not have any alternate plan of running the affairs of the country but was bent on achieving its single point agenda of dislodging the government and as before incited the military to intervene. In the last quarter of 1996 the PPP government presented a mini budget due to the serious economic crisis in the country. This gave the opposition a chance to up the ante and using the dismal economic situation as an excuse Nawaz Sharif requested the President to dismiss the government in his meeting with the President on September 26, 1996.

Instances of collaboration between the government and the opposition in the period were motion on caricatures of Last Prophet Muhammad (S.A.W.W.), Protection of *Namoos-i-Rasalt* law, Teaching of *Nazira* of Holy *Quran* Bill, 1993 and motion on Buner Issue and bill of family court etc. During the second tenure of PML (N) government, PPP had performed as opposition party in the National Assembly of Pakistan. The non-collaboration and confrontational politics was still at full swing in the Parliament as well as outside of Parliament. Government and opposition were blindly following Machiavellian politics in country. For instance opposition had imposed various charges on government like rigging in elections; bogus Parliament and corruption were common. On the government side lot of

corruption references were filed against opposition notable leaders as well as Jam Sadique was appointed Chief Minister Sindh for victimising PPP workers and leaders. It created distrust and non-democratic environment at the floor of National Assembly an outside of the parliament.

On May 31, 1997 *Ehtesab* Act, 1997 was introduced by PML (N) and the period from 1985 to 1990 was excluded from the jurisdiction of the *Ehtesab* Act to exclude Nawaz Sharif from scrutiny because he had been the Chief Minister of the Punjab during this period. The accountability law was enacted to victimise Benazir Bhutto family and the PPP. Nawaz Sharif had strengthened his rule through several constitutional amendments that showed his authoritarian tendency. The 15<sup>th</sup> Amendment was one of best examples in this context.

The accountability law pushed Benazir Bhutto to opt for self-exile she observed the country politics from abroad. However, the opposition established Grand Democratic Alliance (GDA) and as before in sheer opposition of the democratic spirit appealed for military intervention to oust the PML (N) government. However, with various differences, the opposition collaborated with the government on the repeal of the 8<sup>th</sup> Amendment and supported 13<sup>th</sup> Amendment in this regard. Floor crossing had been plaguing the country's political system and politicians switched sides frequently to win favours and elections. Some notable examples in this regard were Iftikhar Hussain Gillani, Chaudhry Qadir Bakash Mela and Mian Muhammad Shafi to check the menace of floor crossing the government introduced the 14<sup>th</sup> Amendment in the National Assembly. The opposition supported this move but for the 15<sup>th</sup> Amendment, it was back to the normal practice of opposing the sitting government and the opposition criticised Special Court Bill, Accountability Act and Foreign exchange restriction bill.

In fact tolerance, accommodation and mutual respect is necessary for strengthening the democratic process and good functioning of the government. In Pakistan the frequent military takeover undermined the values and traditions of real democracy that destroyed the growth of

political parties as well as democratic institutions in the country. The military rule developed particular groups and political forces in the country, for instance Ayub Khan had promoted business class as well as civil military bureaucracy in the country while in the period of General Muhammad Zia-ul-Haq religious forces as well as traders had occupied key posts of government. Besides military intervention there were so many hidden hurdles in the way of the development of democratic norms and traditions such as the feudal lords, capitalist and elite classes who created conflicts for their interests, and above all the undemocratic nature of the structure of the political parties themselves.

Consequently, tolerance, compromise and bargaining were absent in the country's politics. The introduction of Islamization in politics also created politics of confrontation and sectarian conflicts in the country. The fact that most of the parliamentarians were uneducated and inexperienced also did not help matters and a culture of collaboration could not grow in the country. Collaboration and cooperation in politics can be promoted in the country through measures such as the following.

1. Political education is essential for Parliamentarians because they do not have proper knowledge regarding the Parliamentary processes and procedures. They should be educated as to how to conduct the business of the Parliament and how to propose a bill or a piece of legislation.
2. Law experts and support staff should be appointed in the Parliament for the help of the Parliamentarians so that they can get help on special issues during the debates.
3. A Training Academy should be established for training of the Parliamentarians.
4. The government should avoid using threat or coercion against the opposition.
5. The opposition should also avoid seeking support from undemocratic powers on various issues of the country especially regarding dislodging the government.
6. Accountability should be impartial and should be a part of the electoral process.
7. Each political party should purge its leadership through positive and radical reforms.

8. Democracy and democratic norms evolve over time and democracy in Pakistan too needs time to mature and transform into a healthy viable and strong system.

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